

FILED  
SCRANTON

MAY 04 2010

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT, PENNSYLVANIA

PER                       
DEPUTY CLERK

Ronald Gene Moll  
V.  
Commonwealth of Pennsylvania,  
et. al..

: No: 10-955  
: HABEAS CORPUS  
: Jury Trial Demanded

PETITION FOR WRIT OF HABEAS CORPUS:

I. JURISDICTION / VENUE

1.) Jurisdiction is conferred upon this Court pursuant to Article VI, cl.2 ; Amendments 4 ; 5 ; 6 ; and 14 ; 28 U.S.C. 2241, 2243, 2247, 2251, 2254(a), (b)(1)(B)(i) ; (ii) ; (e)(i) ; (e)(2)(B).

II. PLAINTIFF

2.) Ronald Gene Moll (hereinafter "Petitioner"), at all times relevant herein, is a prisoner confined in the Pennsylvania Department of Corrections, currently residing at SCRF-MERCER, 801 Butler Pike, Mercer, PA. 16137.

III. DEFENDANT(S)

3.) Commonwealth of Pennsylvania, by and through, its Corporate Municipal Instrumentality; Schuylkill County Court of Common Pleas, 420 North Centre Street, Pottsville, PA. 17901; under the Principal / Agent Doctrine.

4.) James P. Goodman, District Attorney, 401 North Second Street, Pottsville, PA. 17901; under the Principal / Agent Doctrine.

5.) Michael A. O'Pake, Assistant District Attorney, 401 North Second Street, Pottsville, PA. 17901; by and through, the Principal / Agent Doctrine(s).

6.) District Court 21-3-07, by and through State Agent, James R. Riley, D.J., 200 North Centre Street, Pottsville, PA. 19901, under the Principal / Agent Doctrine.

7.) Shenadoah Borough, by and through, Shenadoah Police Department, Shenadoah, PA. 17976; under the Principal / Agent Doctrine.

- 8.) Matthew R. Nester, State Agent, Chief of police, Shenadoah Police Department, 25 West Washington Street, Shenadoah, PA. 17976; under the Principal / Agent Doctrine.
- 9.) Jamie Gennarini, State Agent, Captain of police, Shenadoah Police Department, 25 West Washington Street, Shenadoah Police Department, Shenadoah, PA. 17976; under the Principal / Agent Doctrine.
- 10.) Jason Hayes, State Agent, Patrolman, Shenadoah Police Department, 25 West Washington Street, Shenadoah, PA, 17976; under the Principal / Agent Doctrine.
- 11.) ALL aforementioned Defendant(s), are herein attached in their Official and Individual Capacities; under the Principal / Agent Doctrine, to include vertical privity.

### III. FACTS

- 12.) On April 9, 2007, Chief Matthew Nester, S.P.D., fully executed an Affidavit of Probable, before issuing Authority James R. Riley, D.J., District Court 21-3-07; Thusly, procuring an application for a Search Warrant in violation of Franks V. Delaware 438 U.S. 154 (1978), [Exhibit's 1-1.2; 2-2.3].
- 13.) On April 10, 2007, based upon the above unlawful conduct, an Arrest Warrant was issued by the above said issuing Authority, [Exhibit 3-3.2].
- 14.) On April 20, 2007, a preliminary hearing to determine prime facie was to be held, continued to May 2, 2007. [Exhibit's 4-4.1].
- 15.) On May 2, 2007, Chief of Police, Matthew Nester, Arresting Officer, Submitted a written request to withdrawal charges on Case Docket No. CR-78-07. The above unlawful conduct created Case Docket No. CR-77-07, as well, based upon the Original Complaint No. 123-175, with Probable cause established by the above said unlawful conduct being negated for all [Exhibit 5]
- 16.) The above unlawful conduct created Schuylkill County Court of Common Pleas Criminal Docket No. CP-54-CR-669-2007, [Exhibit 7].
- 17.) On July 9, 2007, Commonwealth of Pennsylvania, by and through, District Attorney James P. Goodman, vin, unknown State Agent filed a Bill of Information, based upon the above said unlawful conduct; to thereby engage in a course of Selective, vindictive, malicious prosecution outlawed under Wong Sun V. U.S., 371 U.S. 471, 487-88 (1963), [Exhibit 7-7.13, S.C.C.C.P. Crim. Dkt. No. 54-CR-669-2007, at pp. 7 of 14, Exhibit 7.6].
- 18.) Between July 9, 2007 to February 27, 2008, the above Said District Attorney's office, via, unknown State Agents, employed a course of conduct in furtherance of the above unlawful conduct, by "Judge Shopping" to further its agenda under Vexatious litigation and Barratry.

utilizing evidence seized during an illegal search violating the Doctrines set forth in Boyd V. U.S., 116 U.S. 616 (1886); and Weeks V. U.S., 232 U.S. 383, 398 (1914); and Mapp V. Ohio, 367 U.S. 643, 654-55 (1961); under 4th Amend. Principals.

19.) The Sine Qua Non, thus, the Secondary prosecution was created by the above unlawful conduct described, without seeking a Secondary Search Warrant, seizing items not listed in the Original Search Warrant in violation of Murray V. U.S., 487 U.S. 533, 542 (1988); and the knock and announce rule set forth in Wilson V. Arkansas, 514 U.S. 927, 929 (1995).

20.) The above Sine Qua Non Prosecution as described above, incepted by and through, the Shenadoah Police misconduct, further deprived petitioner of his "Miranda Rights" under Miranda V. Arizona, 384 U.S. 436, 475 (1966); to include any type of Secondary Arrest warrant, and subsequent "Gerstein Hearing" to determine probable cause under Gertin V. Pugh, 420 U.S. 103, 114 (1975); nor the time requirements to hold one in accord to City of riverside V. McLaughlin 500 U.S. 44, 56 (1991).

21.) On February 6, 2008, Petitioner was notified by appointed State Agents, that due to their incompetence, and willful refusal to show undivided interest / communication under Wilkins V. U.S., 441 U.S. 468 (1979); Ferri V. Ackerman, 444 U.S. 193 (1979); thusly deprived Petitioner protection of his 6th Amend. Right of Counsel's Duty to Client under Critical Stages as set forth in U.S. V. Wade, 388 U.S. 218, 224 (1967); under Counsel's performance / effectiveness Standard Set forth in Powell V. Alabama, 287 U.S. 45, 57 \*63-64\*, 69 (1932). Thusly, depriving and foreclosing Petitioner's Pa.R.Crim.P. 576 Omnibus Pretrial Rights to a Suppression Hearing, under 4th Amend. Principals / Doctrines, [Exhibit 8] ; [Exhibit 9.4, Trial N.T. p.4, 6/11/08, In Camera Proceedings, Line 1-25].

22.) On February 27, 2008, Kent D. Watkins, State Agent, Public Defender as described above, furthered the atrocious and willful deprivation of Petitioner's 6 and 14th Amend. Rights to a Speedy Trial and the Compulsory process. Thereby prejudicing Petitioner under the Lavasco V. U.S., 413 U.S. 738 (1977); and U.S. V. Marion, 404 U.S. 307, 324 (1971) rules, [Exhibit 7.8, S.C.C.P. Crim Plot 54-CR-669-2007, pp. 9 of 14, Entry's 2,3];

23.) On June 11, 2008, The Commonwealth further deprived Petitioner of his 6th and 14th Amend. Rights, by utilizing Testimonial hearsay from the above procured outlawed conduct, to thus try and convict Petitioner in violation of Crawford V. Washington, 546 U.S. 36,68 (2004); as defined in Davis V. Washington, 547 U.S. 813, 822 (2006), [Exhibit 9-9.13].

24.) On June 11, 2008, the Commonwealth unlawfully vouched for its witnesses with Petitioner's impaneled Jury Outlawed under U.S. V. Young, 470 U.S. 1, 18-19 (1985); In Re Dispoz-o-Plastics, 172 F.3 d 275 (3d CIR1999); Marshall V. Hendricks, 307 F. 3d 36,65 (3d CIR 2002), [Exhibit 9.5, S.C.C.P. N.T. p.5, Line 3-8].

25.) Further atrocious unlawful conduct, as well as the above described outlawed conduct, Committed against the U.S. Constitutional Amend.'s 4,5,6, and 14th; thusly, proving the aforementioned Said unlawful conduct employed thus depriving Petitioner of any type of Constitutional protections; are proved herein by the attached hereto Documented record

Evidence, [Exhibit 9-9.13, S.C.C.P. N.T. pp.: 2-6; 90-92].

26.) On August 27, 2008, a timely Direct Appeal was executed, PA. Superior Ct. Middle District, No. 1547 MDA 2008, [Exhibit 10-10.2, Dkt. No. 1547 MDA 2008, Appeal Docket Sheet].

27.) On December 8, 2008, Appointed State Agent, Kenneth D. Watkins, abandoned Petitioner at a "Critical Stage" of Direct Appeal. In fact, Counsel was not only ineffective, Counsel was incompetent. Said party filed a motion to withdrawal appearance under "Tuner / Finley", instead of an "Anders" Brief. with the Pa. Superior Court admonishing said incompetence as the very first in its Opinion dated April 14, 2010. This very act triggers numerous Sixth Amend. Authorities, Powell V. Alabama, 308 U.S. 444, 446 (1940); U.S. V. Decostor, 624 F. 2d 196, 219, Cert. den. 444 U.S. 944 (1979); McMann V. Richardson, 397 U.S. 759 (1970); Strickland V. Washington, 466 U.S. 668 (1984); and U.S. V. Mannino, 212 F.3d 835 (3d CIR 2000) (Strickland test applies with equal force to appellate counsel). [Exhibit(s) 11-11.1; Ex 16, Pa. Sup. Op., 1547 MDA 2008, pg. 1]

28.) On the above Said date, Appointed Counsel withdrew his appearance on the exact same day Petitioner's Brief was due in the Pa. Superior Court. Subsequently filing a boiler plate Brief, thereby foreclosing any type of Due Process, or meaningful Appeal, under the 6th and 14th Amend.'s, [Exhibit 10-10.1].

29.) On January 29, 2009, to add insult to injury, Petitioner was not only abandoned by incompetent Counsel under the 6th Amend; a Third-Party State Agent, Tyler Reese, notified Petitioner of Counsel's withdrawal, relinquishing a discovery packet in the instant case. [Exhibit 12].

30.) On February 13, 2009, P.J. , Baldwin, violated Petitioners Pro-Se rights under Faretta V. California, 422 U.S. 806 (1975); and forced representation under McKaskle V. Wiggins, 465 U.S. 168, 177 (1984) (IN RE FARETTA), [Exhibit 13].

31.) On March 12, 2009, Petitioner under necessity was forced to give up one Constitutional Right to assert another outlawed under Simmons V. U.S., 390 U.S. 377, 394 (1968), to thusly, assert his Faretta, and McKaskle Rights, Supra, by submitting a motion to Strike Appointed Counsels' Brief; to proceed pro-se in a Constitutionally unprotected and defective proceeding known as P.C.R.A., [Exhibit 14-14.1].

32.) On March 16, 2009, The Pa. Superior Court further denied Petitioner's Faretta / McKaskle, 6 Amend., and 14th Amend. Due process, [Exhibit 15].

33.) On April 14, 2010, The Pa. Superior Court adjudicated Petitioner's Appeal, based on the above Said incompetent / ineffective Counsel's Letter and Brief. Thereby Scuttling Petitioner's Meritorious Constitutional Claims under Administrative Fiat. Furthering the Atrocious miscarriage of Justice under the 6th and 14th Amend. Ultimately relying on the credibility of the above Said Police Officer's testimony in violation of Crawford & Davis, Supra.. Violating Petitioner's Due Process rights under Wolffe V. McDonnell, 418 U.S. 539, 558

(1994) (Citing - Dent V. W. Virginia, 129 U.S. 114, 123 (1889)); Grannis V. Ordean, 234 U.S. 385; U.S. V. Sisson, 399 U.S. 314 (1970); Bolling V. Sharpe, 347 U.S. 497, 499 (1954); Ex parte Milligan, 4 wall. 2, 120-121; Hamilton V. Kentucky Distillers, 251 U.S. 146; Kennedy V. Mendoza-Martinez, 372 U.S. 144 (1963); Benton V. Maryland, 395 U.S. 793, 794, n.13 (Citing - Duncan V. Louisiana, 391 U.S. 145, 149 (1968); [Supremacy Clause], Sims V. Georgia, 385 U.S. 538 (1967); and Kalb V. Feuerstein, 308 U.S. 433 (1940), [Exhibit 16-16.6].

34.) On the above Said date of April 14, 2010, the Pa. Superior Court continued the egregious Deprivation of Petitioner's U.S. Civil / Constitutional right, under the guise and ruse of Credible witnesses. When in fact All said witnesses have been formally charged by Federal Authorities, for the cover up of a capital offense. In fact, ALL THREE OF THE COMMONWEALTH'S BEST WITNESSES HAVE Been formally charged, on December 15, 2009. Petitioner's appeal was determined under an "alleged" de novo review, antecedent / post to this Factual event. [Exhibit(s) 17-17.6].

35.) Pursuant to 28 U.S.C. 2254 (d)(1),(2); the decision's in the matter before the Federal Venue, resulted in a decision contrary to clearly established Federal Law as determined by the U.S. Supreme Court; and resulted in a determination that was based on an unreasonable determination of the facts in light of the evidence presented in the State Court Proceeding.

36.) Pursuant to 28 U.S.C. 2254 (b)(1)(B)(i),(ii); there is an absence of available State Corrective process; and circumstances exist that render such process ineffective to protect the rights of the applicant. State P.C.R.A. proceedings are Constitutionally unprotected and defective. Thus, forcing Petitioner to exhaust other State remedies, would mandate recourse to State Collateral review whose results have been predetermined, Brown V. Allen, 344 U.S. 443, 447 (1953); Castille V. Peoples, 489 U.S. 346, 350 (1989); Lambert V. Blackwell, 387 F. 3d 210, 232 (3d CIR 2004)(Same).

37.) Pursuant to 28 U.S.C. 2254 (b)(3); The State, by and through, Judicial Order 218, May 9, 2000; expressly waives review in the Pa. Supreme Court, [Exhibit 18] ; with the Third Circuit Cognizant of Said order in Wenger V. Frank, 266 F. 3d 218, 224-26 (3d CIR 2001) [Exhibit 19-19.1].

38.) Pursuant to 28 U.S.C. 225 4 (e) et. seq. , (f); has been fully met under the Sumner V. Mata, -U.S.-, 101 S.Ct. 764, 775 (1981) [Sumner I] Standard of Clear and Convincing evidence, Attached hereto the four corners of Petitioners, Petition for Habeas Corpus, herein.

#### IV. CLAIMS

39.) Petitioner maintains his actual innocence.

40.) Defendant(s) deprived Petitioner of his 1st Amend. rights to petition the Government for the Redress of Grievances, by the unlawful arbitrary Government interference with Due Process.

- 41.) Defendant(s) deprived petitioner of his 4th Amend. right of guarantee and protection from unlawful Search and Seizure(s).
- 42.) Defendant(s) deprived Petitioner of his 5th Amend. rights of protection against self incrimination.
- 43.) Defendant(s) deprived Petitioner of his 6th Amend. rights to a fair and impartial trial by jury; cross-examination of petitioners' accuser; competent Counsel; and Compulsory process.
- 44.) Defendant(s) deprived petitioner of his 14th Amend., Due Process and Equal Protection of the Law(s) Clause(s), by arbitrary governmental interface with Due Process.
- 45.) Defendant(s) employed and engaged in outlawed Conduct by Collusion, thus, becoming joint-tortfeasors, oppressing Petitioner under the Color of State Law by a local municipal instrumentality.
- 46.) Defendant(s) utilized fraud, perjury, and manufactured evidence; to selectively, maliciously, and vindictive prosecution to try and convict Petitioner, by State Actor(s) now known to employ Said Conduct.
- 47.) Defendant(s) deprived Petitioner of the 39th and 40th Articles of the Great Charter from John, 1215, [Magna Charta], to wit, "39th - No Freeman shall be arrested or detained in prison or be deprived of his freehold, or outlawed, or banished, or in any way molested; and we will not set forth against him nor send against him unless by the lawful judgment of his peers and by the law of the land, "...40th - to no one will we sell, to no one will we refuse or delay, right or justice. ". Coinciding with " justice delayed is a justice denied..." U.S. ex. rel Geisler V. Walters, 510 F.2d 875 (CA. 3 1975).
- 48.) Defendant(s) willfully deviated from the Supremacy Clause.
- 49.) Defendant(s) willfully refused to discharge their Oath and Duty to the U.S. Constitution under U.S.C. 101, as Federal Officers / Employee's under 5 U.S.C. 2014, and 2105, implementing 42 U.S.C. 13701 et. seq..
- 50.) All elements / prongs /criteria of 28 U.S.C. 2254 et. seq., as Stated aforementioned have been appeased.
- 51.) Pursuant to Pennsylvania Judicial Order 218, The Defendant(s) expressly waive the exhaustion requirement; thus, Federal Comity is settled, with the instant matter ripe for review.
- 52.) Petitioner is being unlawfully imprisoned, unlawful under the U.S. Constitution, and Article VI., C1.2.
- 53.) Defendant(s) are committing fraud upon ALL Courts of the Land, outlawed under Hazel-Atlas Glass Co. V. Hartford-Empire Co., 323 U.S. 238 (U.S. Pa. 1944)(Citing - U.S. V. Throckmorton, 98 U.S. 61 (1889)).



V. RELIEF


- 54.) Petitioner demands a Jury Review, under the Doctrine laid down in Sparf & Hansen V. U.S., 156 U.S. 51 (1895); under Article III; Article VI; cl.2; and Amend.'s 1 and 5.
- 55.) A Declaratory Judgement that the outlawed conduct contained within the Four Corners of this Petition, including the Exhibit(s) Attached hereto violated Petitioner's Constitutional and Civil Rights.
- 56.) This Court to Discharge its Duty to the U.S. Constitution under 28 U.S.C. 453.
- 57.) This Court to involve its Power to Grant under 28 U.S.C. 2241.
- 58.) This Court to Issue a Writ of Habeas Corpus under 28 U.S.C. 2243.
- 59.) This Court to Stay Any / All State Court proceedings that currently unlawfully imprison Petitioner under 28 U.S.C. 2251.
- 60.) This Court to immediately release Petitioner from the Constitutionally outlawed methodology, employed under the Color of State Law.
- 61.) Any and All relief This Court deems Constitutionally prudent, and Equitable.

FURTHER PETITIONER SAYETH NAUGHT

VI. VERIFICATION

This Petition is Subscribed under 18 U.S.C. 1628. Affirmed to and verified under 28 U.S.C. 1746.

Executed this 23 day of April, 2010.

  
Ronald Gene Moll  
Petitioner / Pro-se  
HT-0026  
SCRF-MERCER  
801 Butler Pike  
Mercer, PA.  
16137

## Commonwealth of Pennsylvania



MD-44-07

AFFIDAVIT OF  
PROBABLE CAUSE

## COUNTY OF Schuylkill

Docket Number MD-44-07

Police Incident

Warrant Control

(Issuing Authority) JAMES K REILEY Number: 123-159

Number: 123-159

PROBABLE CAUSE BELIEF IS BASED UPON THE FOLLOWING FACTS AND CIRCUMSTANCES:

Your affiant is employed as a police officer with the Shenandoah Borough Police Department. Your affiant has been employed as a full-time police officer for approximately nine years. During your affiant's career, I have conducted numerous drug-related investigations which yielded felony and misdemeanor arrests and convictions for drug law violations, as well as the seizure of illegal drugs, money, weapons and other contraband. Your affiant has attended several schools and seminars related to illegal drug investigations, including drug identification, managing confidential informants, drug interdiction and conducting various types of drug investigations. Your affiant also attended and received certification in the United States Drug Enforcement Administration Advanced Narcotics Investigators training. Your affiant has been certified by the Honorable D. Michael Stine in the Schuylkill County Court of Common Pleas as an expert witness in the area of narcotics investigations. Your affiant is also a current and active member of the Pennsylvania Narcotics Officers Association.

Beginning in the month of February 2007, your affiant began an investigation of the sale of illegal narcotics, namely, methamphetamine, occurring at 7 North Bridge Street in Shenandoah Borough. The sole occupant of 7 North Bridge Street is Ronald Gene Moll. During the course of this investigation, your affiant was assisted by a Confidential Informant (C.I.) who purchased quantities of methamphetamine from Moll at 7 North Bridge Street in Shenandoah Borough.

On one occasion in February 2007, your affiant was contact by the C.I., who stated that they could purchase an amount of "crank" (slang for methamphetamine) from Moll at his residence at 7 North Bridge Street in Shenandoah Borough. Your affiant instructed the C.I. to set up a transaction with Moll in order to make a controlled purchase of methamphetamine. Your affiant subsequently met with the C.I. at the Shenandoah Borough Police Department. The C.I. stated that they had contacted Moll and that Moll had methamphetamine available for purchase. Your affiant then performed a search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located on the C.I.'s person or clothing. Your affiant then provided the C.I. with an amount of United States currency to be used to purchase the methamphetamine from Moll at 7 North Bridge Street. Your affiant and the C.I. then left the Shenandoah Borough Police Department, entered your affiant's vehicle and drove to an area near 7 North Bridge Street. Your affiant parked my vehicle in an area which provided me with a clear, unobstructed view of 7 North Bridge Street. Your affiant remained in my vehicle while the C.I. exited my vehicle and walked a short distance to 7 North Bridge Street. Your affiant then observed the C.I. walk to the side of the building in order to access the stairway to Moll's residence, located on the second floor of the building. Minutes later, your affiant observed the observed the C.I. walk from around the side of 7 North Bridge Street back toward my location. The C.I. then re-entered your affiant's vehicle and handed your affiant a small plastic baggie containing an off-white granulated substance. Your affiant preliminarily identified the substance as methamphetamine. Your affiant and the C.I. then returned to the Shenandoah Police Department, where your affiant performed another search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located. The C.I. stated that they had purchased the baggie of methamphetamine from Moll while inside of his residence. Your affiant later performed a NARK drug field test on a sample of the granulated substance obtained from the C.I. The test yielded a postive result for amphetamine.

Robert R. Vent 9 APRIL 2007

James K. Reiley 9 APR 19 2007

[EXHIBIT 1]



On another occasion in March 2007, your affiant was contact by the C.I., who stated that they could, again, purchase an amount of "crank" (methamphetamine) from Moll at his residence at 7 North Bridge Street in Shenandoah Borough. Your affiant instructed the C.I. to set up a transaction with Moll in order to make a controlled purchase of methamphetamine. Later, your affiant met with the C.I. at the Shenandoah Borough Police Department. The C.I. stated that they had contacted Moll and that Moll had methamphetamine available for purchase. Your affiant then performed a search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located on the C.I.'s person or clothing. Your affiant then provided the C.I. with an amount of United States currency to be used to purchase the methamphetamine from Moll at 7 North Bridge Street. Your affiant and the C.I. then left the Shenandoah Borough Police Department, entered your affiant's vehicle and drove to an area near 7 North Bridge Street. Your affiant parked my vehicle in an area which provided me with a clear, unobstructed view of 7 North Bridge Street. Your affiant remained in my vehicle while the C.I. exited my vehicle and walked a short distance to 7 North Bridge Street. Your affiant then observed the C.I. walk to the side of the building in order to access the stairway to Moll's residence, located on the second floor of the building. Minutes later, your affiant observed the C.I. walk from around the side of 7 North Bridge Street back toward my location. The C.I. then re-entered your affiant's vehicle and handed your affiant a small plastic baggie containing an off-white granulated substance. Your affiant preliminarily identified the substance as methamphetamine. Your affiant and the C.I. then returned to the Shenandoah Police Department, where your affiant performed another search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located. The C.I. stated that they had purchased the baggie of methamphetamine from Moll while inside of his residence. Your affiant later performed a NARK drug field test on a sample of the granulated substance obtained from the C.I. The test yielded a postive result for amphetamine.

On 9 April 2007, your affiant was contacted by the C.I. who stated that Moll had an amount of illegal narcotics, namely, methamphetamine, in his possession, which was being stored at Moll's residence located at 7 North Bridge Street in Shenandoah Borough.

Your affiant began surveillance on 7 North Bridge Street on 9 April 2007. At approximately 2030 hours, your affiant observed a white Chevrolet sedan bearing Pennsylvania registration FRP9010 being operated by a white male park in front of 7 North Bridge Street. The white male subsequently exited his vehicle and entered Moll's residence. The white male then exited approximately three minutes later. Your affiant checked registration FRP9010 with PENNDOT and found the registration to be expired and issued to a Pontiac. Your affiant contacted Shenandoah Borough Police Captain Jamie Gennarini and requested him to perform a traffic stop on the white Lumina. Captain Gennarini did stop the white Lumina and, through investigation, found the operator of the Lumina, David M. Willis, to be in possession of a quantity of methamphetamine. Your affiant examined the methamphetamine and found the packaging to be identical to the packaging of the methamphetamine obatined during the two previous controlled buys made from Moll with the C.I.

Your affiant requests that this application for search warrant be granted in order to search 7 North Bridge Street in Shenandoah Borough as described in the application.

I, THE AFFIANT, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

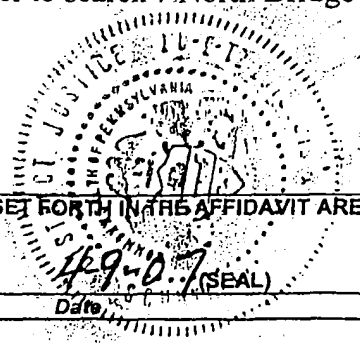
Affiant Signature

Date

Issuing Authority Signature

Date

Page 3 of 4 Pages



[EXHIBIT 1.1]

Defendant's Name: Ronald Gene Moll

Docket Number: CR 78 07

**POLICE  
CRIMINAL COMPLAINT****AFFIDAVIT of PROBABLE CAUSE**

Your affiant is employed as a police officer with the Shenandoah Borough Police Department.

Beginning in the month of February 2007, your affiant began an investigation of the sale of illegal narcotics, namely, methamphetamine, occurring at 7 North Bridge Street in Shenandoah Borough. The sole occupant of 7 North Bridge Street is Ronald Gene Moll. During the course of this investigation, your affiant was assisted by a Confidential Informant (C.I.) who purchased quantities of methamphetamine from Moll at 7 North Bridge Street in Shenandoah Borough.

On one occasion in February 2007, your affiant was contact by the C.I., who stated that they could purchase an amount of "crank" (slang for methamphetamine) from Moll at his residence at 7 North Bridge Street in Shenandoah Borough. Your affiant instructed the C.I. to set up a transaction with Moll in order to make a controlled purchase of methamphetamine. Your affiant subsequently met with the C.I. at the Shenandoah Borough Police Department. The C.I. stated that they had contacted Moll and that Moll had methamphetamine available for purchase. Your affiant then performed a search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located on the C.I.'s person or clothing. Your affiant then provided the C.I. with an amount of United States currency to be used to purchase the methamphetamine from Moll at 7 North Bridge Street. Your affiant and the C.I. then left the Shenandoah Borough Police Department, entered your affiant's vehicle and drove to an area near 7 North Bridge Street. Your affiant parked my vehicle in an area which provided me with a clear, unobstructed view of 7 North Bridge Street. Your affiant remained in my vehicle while the C.I. exited my vehicle and walked a short distance to 7 North Bridge Street. Your affiant then observed the C.I. walk to the side of the building in order to access the stairway to Moll's residence, located on the second floor of the building. Minutes later, your affiant observed the observed the C.I. walk from around the side of 7 North Bridge Street back toward my location. The C.I. then re-entered your affiant's vehicle and handed your affiant a small plastic baggie containing an off-white granulated substance. Your affiant preliminarily identified the substance as methamphetamine. Your affiant and the C.I. then returned to the Shenandoah Police Department, where your affiant performed another search of the C.I.'s person and clothing for contraband and/or money. No contraband or money was located. The C.I. stated that they had purchased the baggie of methamphetamine from Moll while inside of his residence. Your affiant later performed a NARK drug field test on a sample of the granulated substance obtained from the C.I. The test yielded a postive result for amphetamine.

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I, Chief Matthew R. Nestor, BEING DULY SWORN ACCORDING TO LAW,

EXHIBIT 5

Commonwealth of Pennsylvania

APPLICATION FOR  
SEARCH WARRANT  
AND AUTHORIZATION

MD-44-07

COUNTY OF Schuylkill

Docket Number

(Issuing Authority) JAMES K. REILEY

Police Incident

Number: 123-159

Warrant Control

Number: 123-159

Chief Matthew R. Nestor

Shenandoah Boro Police Dept.

570-462-1008

9 April 2007

AFFIANT NAME

AGENCY

PHONE NUMBER

DATE OF APPLICATION

IDENTIFY ITEMS TO BE SEARCHED FOR AND SEIZED (Be as specific as possible):

See Continuation Page

SPECIFIC DESCRIPTION OF PREMISES AND/OR PERSON TO BE SEARCHED (Street and No., Apt. No., Vehicle, Safe Deposit Box, etc.):

The entire residence and property comprising 7 North Bridge Street in Shenandoah Borough, Schuylkill County, Pennsylvania; said residence and property being a residential two-story single brick structure with a white siding façade on the front (west) side of the building, a garage on the first floor of the structure with a white garage door; the number "7" on the front of the residence directly above the garage door and living quarters being located on the second floor of the structure.

NAME OF OWNER, OCCUPANT OR POSSESSOR OF SAID PREMISES TO BE SEARCHED (If proper name is unknown, give alias and/or description):

Ronald Gene Moll

VIOLATION OF (Describe conduct or specify statute):

Title 35: The Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act

DATE(S) OF VIOLATION:

See Affidavit

☐ Warrant Application Approved by District Attorney - DA File No. \_\_\_\_\_

(If DA approval required per Pa.R.Crim.P. 201(1) with assigned File No. per Pa.R.Crim.P. 507)

☐ Additional Pages Attached (Other than Affidavit of Probable Cause)☒ Probable Cause Affidavit(s) MUST be attached (unless sealed below) Total number of pages: 2

TOTAL NUMBER OF PAGES IS SUM OF ALL APPLICATION, PROBABLE CAUSE AND CONTINUATION PAGES EVEN IF ANY OF THE PAGES ARE SEaled

The below named Affiant, being duly sworn (or affirmed) before the Issuing Authority according to law, deposes and says that there is probable cause to believe that certain property is evidence of or the fruit of a crime or is contraband or is unlawfully possessed or is otherwise subject to seizure, and is located at the particular premises or in the possession of the particular person as described above.

SHENANDOAH POLICE DEPT.

Signature of Affiant

Agency or Address if private Affiant

Sworn to and subscribed before me this

9

day of

April 2007

Mag. Dist. No.:

21-3-07

Signature of Issuing Authority

Office Address

SEARCH WARRANT

TO LAW ENFORCEMENT

OFFICER:

WHEREAS, facts have been sworn to or affirmed before me by written affidavit(s) attached hereto from which I have found probable cause, I do authorize you to search the premises or person described, and to seize, secure, inventory and make return according to the Pennsylvania Rules of Criminal Procedure.

☒ This Warrant shall be served as soon as practicable and shall be served only between the hours of 6AM to 10PM but in no event later than:☐ This Warrant shall be served as soon as practicable and may be served any time during the day or night but in no event later than:

10:00 P M, o'clock 4/11/07

\* The issuing authority should specify a date not later than two (2) days after issuance. Pa.R.Crim.P. 205(4).

\*\* If the issuing authority finds reasonable cause for issuing a nighttime warrant on the basis of additional reasonable cause set forth in the accompanying affidavit(s) and wishes to issue a nighttime warrant, then this block shall be checked. Pa.R.Crim.P. 206(7).

Issued under my hand this

9th

day of

April 2007

at

11:28 P

M, o'clock

Signature of Issuing Authority

Mag. Dist. of Judicial Dist. No.

Date Commission Expires

Title of Issuing Authority:

☒ District Justice☐ Common Pleas Judge

☐ For good cause stated in the affidavit(s) the Search Warrant Affidavit(s) are sealed for \_\_\_\_\_ days by my certification and signature. (Pa.R.Crim.P. 211)

(Date) (SEAL)

Signature of Issuing Authority (Judge of the Court of Common Pleas or Appellate Court Justice or Judge)

EXHIBIT 2

TO BE COMPLETED BY THE ISSUING AUTHORITY



EXHIBIT 5-A

Commonwealth of Pennsylvania

APPLICATION FOR  
SEARCH WARRANT  
CONTINUATION PAGES

Docket Number

(Issuing Authority):

JAMES K. REILEY  
MD-44-07

Police Incident

Number: 123-159

Warrant Control

Number: 123-159

Continuation of:☒ Items to be searched  
and seized☐ Description of premises/person(s)  
to be searched☐ Owner/ Occupant☐ Violations

Namely, quantities of controlled substances, controlled substances paraphernalia, the means and instrumentalities utilized in the possession, dilution and/or distribution of controlled substances including but not limited to packaging materials, scales and other measuring tools, any and all proceeds, including but not limited to United States currency that has been acquired or gained through the distribution and sale of controlled substances, all records, papers, tally sheets, stored electronic communication devices and the contents therein, records relating to customers, suppliers, distributors, couriers and other papers reflecting controlled substance distribution or transportation, any firearms or weapons which are kept for the protection of said controlled substances, all of which are in violation of the Pennsylvania Controlled Substance, Drug, Device and Cosmetic Act of 1972.



Mark N. [Signature] 9 APRIL 2007

Page 4 of 4 Pages

James K. Reiley [Signature] 4/9/07

[EXHIBIT 2.1]

Defendant's Name: Ronald Gene Moll

Docket Number: CR 77 07

POLICE  
CRIMINAL COMPLAINT

## AFFIDAVIT of PROBABLE CAUSE

Your affiant is employed as a police officer with the Shenandoah Borough Police Department.

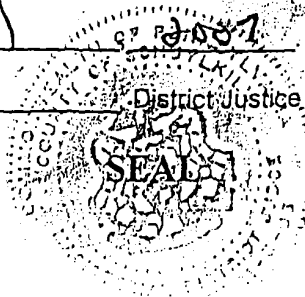
On 10 April 2007 at approximately 0605 hours, your affiant and other Shenandoah Borough Police Department officers served a search warrant at 7 North Bridge Street in Shenandoah Borough, a residence occupied by Ronald Gene Moll. A search of the residence yielded approximately 11 grams of methamphetamine, a digital scale, packaging materials and a Jennings .22 caliber pistol. A check of Moll's criminal history revealed: previous guilty pleas for felony Burglary and Larceny.

I, Chief Matthew R. Nestor, BEING DULY SWORN ACCORDING TO LAW,  
DEPOSE AND SAY THAT THE FACTS SET FORTH IN THE FOREGOING AFFIDAVIT ARE  
TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Matthew R. Nestor  
(Signature of Affiant)

Sworn to me and subscribed before me this 10<sup>th</sup> day of April, 2007.

My commission expires first Monday of January, 2010.



[EXHIBIT 2.2]

TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

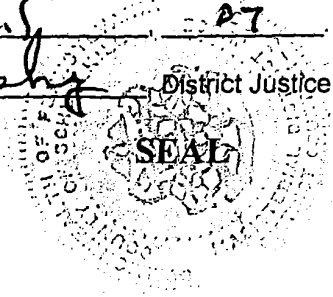
EXHIBIT 5-0

*[Signature]*  
(Signature of Affiant)

Sworn to me and subscribed before me this 10<sup>th</sup> day of April, 2010

*[Signature]* District Justice

My commission expires first Monday of January, 2010.



[EXHIBIT 2.3]



County of: **SCHUYLKILL**Mag. Dist. No.: **21-3-05**MDJ Name: Hon.: **WILLIAM A SLEZOSKY**Address: **33 S MAIN ST****SHENANDOAH, PA 17976**Telephone: **(570) 462-2680****WARRANT OF ARREST**Commonwealth of Pennsylvania  
VS.

NAME and ADDRESS

**MOLL, RONALD GENE**  
**7 N. BRIDGE ST.****SHENANDOAH, PA 17976**Complaint No: **123-175**Charging Officer: **NESTOR, MATTHEW R**Date Filed: **4/10/07**OTN: **K 423757-5**Docket No: **CR-0000077-07**

NCIC OFF:

OOC:

WARRANT ID: **MDJS0013791567**Warrant Control No: **21-3-05-AW-0000221-2007**Issued For: **MOLL, RONALD GENE**Reason for Warrant: **OTHER - ARREST WARRANT**  
**FELONY**

Charge(s):

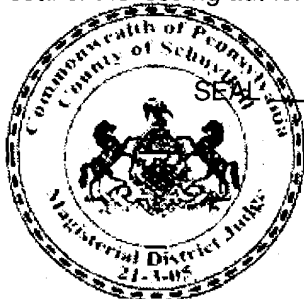
Offense Date

S 35	\$780-113	\$\$A30	POSS. W/INTENT TO DELIVER A CONTROL. SUBSTANCE	04/10/07
S 35	\$780-113	\$\$A16	POSS. OF CONTROLLED SUBSTANCE	04/10/07
S 35	\$780-113	\$\$A32	POSS. OF DRUG PARAPHERNALIA	04/10/07

**TO POLICE OFFICER:**

In the name of the Commonwealth of Pennsylvania, you are commanded to take the defendant, **MOLL, RONALD GENE**, into custody. When the defendant is taken into custody, bring the defendant before me at the Court address shown above to answer the Commonwealth or **SHENANDOAH** upon the complaint of **NESTOR, MATTHEW R** charging the defendant with the offense(s) set forth above and further to be dealt with according to law.

Witness the hand and official seal of the issuing authority on this \_\_\_\_\_ day of \_\_\_\_\_.



(Signature)

**[EXHIBIT 3]**

**ADDITIONAL CHARGES**

Mag. Dist. No.: **21-3-05**

OTN: **K 423757-5**

Defendant Name:

**MOLL, RONALD GENE**



**CR-0000077-07**

(CONTINUED)

S 18 §6105 §§A1 PERSONS NOT TO POSSESS FIREARMS

4/10/07

4-3174

[EXHIBIT 3.1]

**WARRANT OF ARREST****RETURN WHERE DEFENDANT FOUND**

By authority of this warrant, on \_\_\_\_\_, 20\_\_\_\_\_  
I took into custody the within named \_\_\_\_\_, and he/she is

☐ before you for disposition.

☐ in the \_\_\_\_\_ Prison.

**RETURN WHERE DEFENDANT IS NOT FOUND**

☐ After careful search, I cannot find the within named defendant.

\_\_\_\_\_  
(Signature of Police Officer - Name and Title)

**Officer's Costs:**

Warrant \_\_\_\_\_  
Miles @ ¢ \_\_\_\_\_  
Commitments \_\_\_\_\_  
Miles @ ¢ \_\_\_\_\_  
Conveying to hearing \_\_\_\_\_  
Miles @ ¢ \_\_\_\_\_  
Total \_\_\_\_\_

**DEFENDANT CONTACT INFORMATION**

ADDRESS: **MOLL, RONALD GENE**  
**7 N. BRIDGE ST.**  
**SHENANDOAH, PA 17976** TELEPHONE: **(570)**

**DEFENDANT IDENTIFICATION INFORMATION:**

LiveScan Tracking Number		Social Security Number <b>206-34-6092</b>		SID(State Identification Number)				
Driver's License Information		License Number <b>23827989</b>		State <b>PA</b>	Expiration Date <b>00/00/00</b>			
<b>DEFENDANT VEHICLE INFORMATION</b>								
Plate Number	State	Hazmat	Registration Sticker (MM/YY) <b>00 /0000</b>	Comm'l Veh. Ind.	School Veh. Oth.Veh.Cd <b>Y</b>			
<b>DEFENDANT IDENTIFICATION INFORMATION</b>								
AGE <b>64</b>	RACE <b>W</b>	ETHNICITY	GENDER <b>M</b>	EYE COLOR	HAIR COLOR	DATE OF BIRTH <b>1/22/43</b>	WEIGHT(lbs) <b>000</b>	HEIGHT (Ft/In)
NCIC Extradition Code / Description Distance								

ALIAS: \_\_\_\_\_

Mag. Dist. No: **21-3-05**

Docket Number: **CR-0000077-07**

**SHERIFF/CONSTABLE/OFFICER**

**DATE PRINTED: 4/10/07**

**11:18:10**

**AM**

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF: **SCHUYLKILL**

Mag. Dist. No.:

**21-3-05**

MDJ Name: Hon.

**WILLIAM A. SLEZOSKY**

Address:

**33 S MAIN ST  
SHENANDOAH, PA**Telephone: **(570) 462-2680****17976****NOTICE OF  
PRELIMINARY HEARING**

COMMONWEALTH OF

PENNSYLVANIA

VS.

DEFENDANT:

NAME and ADDRESS

**MOLL, RONALD GENE  
7 N. BRIDGE ST.  
SHENANDOAH, PA 17976****RONALD G. MOLL  
7 N. BRIDGE ST.  
SHENANDOAH, PA 17976**Docket No.: **CR-0000078-07**Date Filed: **4/10/07****K 423758-6**

Charge(s):

**S 35 \$780-113 \$SA30 (2 COUNTS) DELIVERY OF A CONTROLLED SUBSTANCE  
S 35 \$780-113 \$SA16 (2 COUNTS) POSS. OF A CONTROLLED SUBSTANCE****NOTICE TO DEFENDANT**

A complaint has been filed charging you with the offense(s) set forth above and on the attached copy of the complaint. A preliminary hearing on these charges has been scheduled for:

Date: <b>4/20/07</b>	Place: <b>DISTRICT COURT 21-3-05 33 S MAIN ST SHENANDOAH, PA 17976 570-462-2680</b>
Time: <b>1:30PM</b>	

If you fail to appear at the time and place above without good cause, you will be deemed to have waived your right to be present at any further proceedings before the Magisterial District Judge, the case will proceed in your absence, and a warrant will be issued for your arrest.

At the preliminary hearing you may:

1. Be represented by counsel;
2. Cross-examine witnesses and inspect physical evidence offered against you;
3. Call witnesses on your behalf other than witnesses to testify to your good reputation only, offer evidence on your behalf and testify;
4. Make written notes of the proceeding, or have your counsel do so, or make a stenographic, mechanical or electronic record of the proceedings.

If you cannot afford to hire an attorney, one may be appointed to represent you. Please contact the office of the Magisterial District Judge for additional information regarding the appointment of an attorney.

If you have any questions, please call the above office immediately.

**4/10/07** Date*William A. Slezosky*

Magisterial District Judge

My commission expires first Monday of January, **2010**.



If you are disabled and require a reasonable accommodation to gain access to the Magisterial District Court and its services, please contact the Magisterial District Court at the above address or telephone number. We are unable to provide transportation.

**COMPLAINT NUMBER: 123-159****DATE PRINTED: 4/10/07 11:44:54 AM****DATE COMPLAINT SIGNED: 4/10/07****[EXHIBIT 4]**

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF: **SCHUYLKILL****NOTICE OF CONTINUANCE**

Mag. Dist. No.:

**21-3-05**

MDJ Name: Hon.

**WILLIAM A. SLEZOSKY**

Address:

**33 S MAIN ST  
SHENANDOAH, PA**

Telephone:

**(570) 462-2680****17976**

COMMONWEALTH OF

PENNSYLVANIA

VS.

DEFENDANT:

NAME and ADDRESS

**MOLL, RONALD GENE****7 N. BRIDGE ST.****SHENANDOAH, PA 17976****RONALD G. MOLL****7 N. BRIDGE ST.****SHENANDOAH, PA 17976**Docket No.: **CR-0000077-07**Date Filed: **4/10/07****K 423757-5**Please note that the hearing in the above captioned case, which was scheduled to occur on: **4/20/07**

has been continued to:

Date: <b>5/02/07</b>	Place: <b>DISTRICT COURT 21-3-05 33 S MAIN ST SHENANDOAH, PA 17976</b>
Time: <b>10:00 AM</b>	

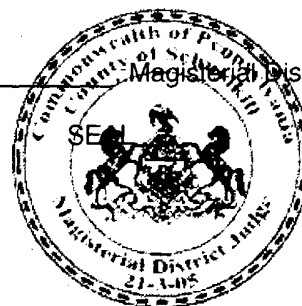
If you have any questions, please contact this office immediately.

Continuance requested by: **MAGISTERIAL DIST. JUDGE**

If you are disabled and require assistance, please contact the Magisterial District office at the address above.

**4/10/07** Date*William A. Slezosky*

Magisterial District Judge

My commission expires first Monday of January, **2010****[EXHIBIT 4.1]****COMPLAINT NUMBER: 123-175**

AOPC 616-05

**DATE PRINTED: 4/10/07 11:19:50 AM****DATE COMPLAINT SIGNED: 4/10/07**

COMMONWEALTH OF PENNSYLVANIA



COUNTY OF SCHUYLKILL

DELANO TOWNSHIP  
EAST UNION TOWNSHIP  
MAHANAY TOWNSHIP  
MAHANAY CITY BORO  
NORTH UNION TOWNSHIP  
RINGTOWN BORO  
SHENANDOAH BORO  
UNION TOWNSHIP

WILLIAM A. SLEZOSKY

DISTRICT JUSTICE

DISTRICT COURT 21-3-05  
33 SOUTH MAIN STREET  
SHENANDOAH, PA 17976  
(570) 462-2680

ARRESTING OFFICER'S WRITTEN REQUEST TO WITHDRAW CHARGES

DATE: 2 MAY 2007

CASE/DOCKET NUMBER: CR-78-07

DEFENDANT'S NAME: RONALD G. MOEL

OFFICER'S NAME: CHIEF MATTHEW R. NESTOR

I CHIEF MATTHEW R. NESTOR, THE ARRESTING OFFICER IN THE  
MENTIONED CASE, DO HEREBY VOLUNTARILY, KNOWINGLY AND WILLINGLY  
WITHDRAW THE CHARGE(S) OF: 780-11.3(30) - POSS. W/INTENT

780-11.3(16) - POSS. CONTROLLED SUBS.

AGAINST THE DEFENDANT BECAUSE C.1. NOT AVAILABLE TO TESTIFY

Matthew R. Nestor  
OFFICER'S SIGNATURE

2 MAY 2007  
DATE

Michael A. O'Brien  
DISTRICT ATTORNEY'S SIGNATURE

5/2/07  
DATE

William A. Slezosky  
DISTRICT CLERK

5-2-07

[EXHIBIT 5]



## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET

Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case



SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 1 of 14

## CASE INFORMATION

Cross Court Docket Nos: 1547 MDA 2008, CR-0000077-07

Judge Assigned:

Date Filed: 05/07/2007

Initiation Date: 04/10/2007

OTN: K4237575

Lower Court Docket No: CR-0000077-07

Initial Issuing Authority: William A. Slezosky

Final Issuing Authority: William A. Slezosky

Arresting Agency: Shenandoah Boro Police Dept

Arresting Officer: Nestor, Matthew R.

Case Local Number Type(s)

Case Local Number(s)

## RELATED CASES

Related Docket No	Related Case Caption	Related Court	Association Reason
<b>Related Misc. Bail Cases</b>			
CP-54-MD-0000460-2007	In Re: Magisterial District Judge Mat	CP-21-54-Crim	Same MDJ Case

## STATUS INFORMATION

Case Status: Closed	Status Date	Processing Status	Arrest Date: 04/10/2007
	08/26/2008	Awaiting Appellate Court Decision	
	08/12/2008	Sentenced/Penalty Imposed	
	06/20/2008	Awaiting Sentencing	
	06/20/2008	Awaiting PSI	
	06/20/2008	Awaiting Sentencing	
	06/11/2008	Awaiting PSI Completion	
	06/11/2008	Awaiting Sentencing	
	01/04/2008	Awaiting Trial	
	01/04/2008	Warrant Lifted	
	12/07/2007	Active Bench Warrant	
	07/10/2007	Awaiting Plea Court	
	07/09/2007	Awaiting Formal Arraignment	
	05/07/2007	Awaiting Filing of Information	
	05/07/2007	Awaiting ARD Hearing	

Event Track: Standard Court Case

Complaint Date: 04/10/2007

[EXHIBIT 7]

EXHIBIT "B" - PAGE 1 OF 7 PAGES

## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET

Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 2 of 14



## CALENDAR EVENTS

<u>Case Calendar Event Type</u>	<u>Schedule Start Date</u>	<u>Start Time</u>	<u>Room</u>	<u>Judge Name</u>	<u>Schedule Status</u>
Bench Warrant Hearing	01/04/2008	2:30 pm	Courtroom 5	Judge D. Michael Stine	Scheduled
Criminal Jury Trials	06/11/2008	8:00 am			Scheduled
Sentencing	08/12/2008	9:30 am	Courtroom 4	Judge William E. Baldwin	Scheduled

## WARRANT INFORMATION

<u>Date</u>	<u>Control No</u>	<u>Warrant Status</u>	<u>Warrant Type</u>	<u>Judge</u>
01/04/2008	54-BA-0000186-2007	Lifted - Active	Bench Warrant - Failure to Appear	Stine, D. Michael

## CONFINEMENT INFORMATION

<u>Confinement Known As Of</u>	<u>Confinement Type</u>	<u>Destination Location</u>	<u>Confinement Reason</u>	<u>Still in Custody</u>
04/10/2007	MDJ Confinement	Schuylkill County Prison	Bail Not Posted	Yes
04/10/2007	MDJ Confinement	Schuylkill County Prison	Bail Not Posted	Yes
04/10/2007	MDJ Confinement	Schuylkill County Prison	Bail Not Posted	Yes

## DEFENDANT INFORMATION

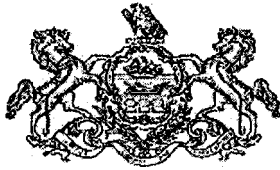
<u>Name</u>	Ronald Gene Moll	<u>Hair Color</u>	<u>Eye Color</u>
<u>Date of Birth</u>	01/22/1943	<u>Address</u>	
<u>SSN</u>	206-34-6092	Address Type Home :	
<u>SID</u>		7 N. Bridge St.	
		Shenandoah, PA 17976	
<u>Drivers License No</u>	23827989		
<u>Drivers License State</u>	PA		
<u>Alias Name</u>		<u>Alias SID</u>	<u>Alias SSN</u>
Moll, Ronald G.			206-34-6092

## CASE PARTICIPANTS

<u>Participant Type</u>	<u>Name</u>
Prosecution	Commonwealth of Pennsylvania
Defendant	Moll, Ronald Gene
Affiant	Nestor, Matthew R.
Professional Surety	Bondsman

[EXHIBIT 7.1]

EXHIBIT "B" - PAGE 2 OF 7 PAGES

**COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY****SECURE DOCKET**

Docket Number: CP-54-CR-0000669-2007

**CRIMINAL DOCKET**

SAME AS 1547 MDA 2008

Court Case

Commonwealth of Pennsylvania

Page 3 of 14

v.

Ronald Gene Moll

**BAIL INFORMATION**

Moll, Ronald Gene

Nebbia Status: None

<u>Bail Action</u>	<u>Date</u>	<u>Bail Type</u>	<u>Percentage</u>	<u>Amount</u>	<u>Bail Posting Status</u>	<u>Posting Date</u>
<u>Bail Non-Monetary Condition/Condition Text</u>						
Set	04/10/2007	Monetary		\$2,500.00		
Forfeiture - Complete	12/10/2007	Monetary		\$2,500.00		
Bail Forfeiture Set Aside	01/04/2008	Monetary		\$2,500.00		
Set (bail modification)	01/04/2008	Monetary		\$5,000.00		
Set (bail modification)	06/11/2008	Monetary		\$25,000.00		
					Posted	04/24/2007

**CHARGES**

<u>Seq.</u>	<u>Orig Seq.</u>	<u>Grade</u>	<u>Statute</u>	<u>Statute Description</u>	<u>Offense Date</u>	<u>OTN</u>
1	1	F	35 § 780-113 §§A30	Manuf/Del/Poss/W Int Manuf Or Del	04/10/2007	K4237575
2	4	F2	18 § 6105 §§A1	Possession Of Firearm Prohibited	04/10/2007	K4237575
3	2	M	35 § 780-113 §§A16	Int Poss Contr Subst By Per Not Reg	04/10/2007	K4237575
4	3	M	35 § 780-113 §§A32	Use/Poss Of Drug Paraph	04/10/2007	K4237575

EXHIBIT "B" - PAGE 3 OF 7 PAGES

[EXHIBIT 7.2]



## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET

Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 4 of 14

## DISPOSITION SENTENCING/PENALTIES

DispositionCase EventSequence/DescriptionSentencing JudgeSentence/Diversion Program TypeSentence ConditionsLinked Offense - SentenceDisposition DateOffense DispositionSentence DateIncarceration/Diversionary PeriodLink TypeFinal DispositionSectionCredit For Time ServedStart DateLinked Docket Number**Lower Court Proceeding (generic)**

## Lower Court Disposition

05/02/2007

Not Final

- 1 / Manuf/Del/Poss/W Int Manuf Or Del
- 2 / Possession Of Firearm Prohibited
- 3 / Int Poss Contr Subst By Per Not Reg
- 4 / Use/Poss Of Drug Paraph

Held for Court (Lower Court)  
Held for Court (Lower Court)  
Held for Court (Lower Court)  
Held for Court (Lower Court)

35§780-113§§A30  
18§6105§§A1  
35§780-113§§A16  
35§780-113§§A32

**Proceed to Court**

## Information Filed

07/09/2007

Not Final

- 1 / Manuf/Del/Poss/W Int Manuf Or Del
- 2 / Possession Of Firearm Prohibited
- 3 / Int Poss Contr Subst By Per Not Reg
- 4 / Use/Poss Of Drug Paraph

Held for Court  
Held for Court  
Held for Court  
Held for Court

35§780-113§§A30  
18§6105§§A1  
35§780-113§§A16  
35§780-113§§A32

**Guilty Plea**

## Criminal Jury Trials

06/11/2008

Final Disposition

- 1 / Manuf/Del/Poss/W Int Manuf Or Del
- Baldwin, William E.
- Confinement

Guilty  
08/12/2008  
Min of 5.00 Years  
Max of 10.00 Years  
5 years to 10 years

35§780-113§§A30  
238 Days  
08/12/2008

## SUBMIT TO DNA TESTING

35§780-113§§A32 - Confinement

Concurrent From Seq. 4

CP-54-CR-0000669-2007

- 2 / Possession Of Firearm Prohibited
- Baldwin, William E.

Dismissed  
08/12/2008

18§6105§§A1

- 3 / Int Poss Contr Subst By Per Not Reg
- Baldwin, William E.
- Merged

Guilty  
08/12/2008

35§780-113§§A16

- 4 / Use/Poss Of Drug Paraph
- Baldwin, William E.

Guilty  
08/12/2008

35§780-113§§A32

EXHIBIT 7.37

## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 5 of 14

## DISPOSITION SENTENCING/PENALTIES

DispositionCase EventDisposition DateFinal DispositionSequence/DescriptionOffense DispositionSectionSentencing JudgeSentence DateCredit For Time ServedSentence/Diversion Program TypeIncarceration/Diversionary Period Start DateSentence ConditionsLinked Offense - SentenceLink TypeLinked Docket Number

Confinement

Min of 6.00 Months

Max of 12.00 Months

6 months to 12 months

Concurrent To Seq. 1

35§780-113§A30 - Confinement

CP-54-CR-0000669-2007

EXHIBIT "B" - PAGE 5 OF 7 PAGES

[EXHIBIT 7.4]

**COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY****SECURE DOCKET**

Docket Number: CP-54-CR-0000669-2007

**CRIMINAL DOCKET**

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 6 of 14

**COMMONWEALTH INFORMATION**

Name: Schuylkill County District Attorney's  
Office  
Prosecutor

Supreme Court No:Phone Number(s):

(570) 628-1350 (Phone)

Address:

Schuylkill County Courthouse  
401 North 2nd Street  
Pottsville PA 17901

**ATTORNEY INFORMATION**

Name: Kent D. Watkins, Esq.  
Public Defender

Supreme Court No: 026001Rep. Status: ActivePhone Number(s):

(570) 429-0326 (Phone)

(570) 429-2081 (Fax)

Address:

Schuylkill County Public Defender's Office  
101 S 2nd Street  
St Clair PA 17970--1204

Representing: Moll, Ronald Gene

Name: William Leo Joseph Burke, Esq.  
Public Defender

Supreme Court No: 055242Rep. Status: InactivePhone Number(s):

(570) 462-1219 (Phone)

(570) 628-2420 (Phone)

(570) 462-2909 (Fax)

Address:

Burke & Burke Law Office  
4 E Centre St  
PO Box 248  
Shenandoah PA 17976--0248

Representing: Moll, Ronald Gene

(570) 462-1219 (Phone)

(570) 628-2420 (Phone)

(570) 462-2909 (Fax)

Address:

120 S. Claude A. Lord Blvd.  
Public Defender's Office  
Pottsville PA 17901

Representing: Moll, Ronald Gene

**[EXHIBIT 7.5]****EXHIBIT "A" - PAGE 6 OF 7 PAGES**

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the courts of the Unified Judicial System of the Commonwealth of Pennsylvania nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these reports. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.



## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007  
**CRIMINAL DOCKET**

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 7 of 14

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>	<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>		
1			PSI REPORT		APD					22	X
1		04/10/2007	Bail Set - Moll, Ronald Gene							2	
					Slezosky, William A.						
1		04/24/2007	Bail Posted - Moll, Ronald Gene							4	
					Bondsman						
1		05/07/2007	Original Papers Received from Lower Court							18	
					Court of Common Pleas - Schuylkill County						
1		07/09/2007	Information Filed							3	
					Commonwealth of Pennsylvania						
1		07/10/2007	Entry of Appearance							1	
					Burke, William Leo Joseph						
2		07/10/2007	Waiver of Appearance at Arraignment and Entry of Plea								
					Burke, William Leo Joseph						
1		11/09/2007	Case Scheduling Form							1	
					Baldwin, William E.						
1		12/07/2007	Motion for Bench Warrant							2	
					Commonwealth of Pennsylvania						
2		12/07/2007	Order Granting Motion for Bench Warrant								
					Stine, D. Michael						

EXHIBIT "A" - PAGE 1 OF 7 PAGES

Printed: 10/27/2008

AOPC 1221 - Rev 10/27/2008

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## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007  
**CRIMINAL DOCKET**

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

Page 8 of 14

v.

Ronald Gene Moll

## ENTRIES

PGS COV

Sequence Number	CP Filed Date	Document Date	Service To	Service By	Filed By	Issue Date	Service Type	Status Date	Service Status
3	12/07/2007		Bench Warrant Printed						
The Defendant failed to appear at the Schuylkill County Courthouse on 11/21/07, for pretrial conferences. The Defendant's Bail Shall Be Forfeited.									
					Stine, D. Michael				
1	12/10/2007		Complete Bail Forfeiture - Moll, Ronald Gene; Bench Warrant Issued						3
					Stine, D. Michael				
1	12/28/2007		Application for Bail Piece						5
					Bondsman				
1	12/31/2007		Order Granting Motion for Bail Piece						
					Stine, D. Michael				
1	01/04/2008		Order Scheduling Hearing						1
					Stine, D. Michael				
2	01/04/2008		Bench Warrant Hearing Scheduled 1/4/2008 2:30PM						
					Court of Common Pleas - Schuylkill County				
3	01/04/2008		Bail Set - Moll, Ronald Gene						1
					Stine, D. Michael				
4	01/04/2008		Order Lifting Bench Warrant						
					Stine, D. Michael				

[EXHIBIT 7.7]

## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 9 of 14

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>	<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>
1	01/31/2008		Case Scheduling Form		Baldwin, William E.				1
1	02/27/2008		Motion for Continuance and Waiver of Pa.R. Crim.P. 600/1013		Watkins, Kent D.				6
1	02/28/2008		Order Granting Motion for Continuance and Waiver of Pa.R.Crim.P. 600/1013 Burke, William Leo Joseph		Stine, D. Michael	02/28/2008	Interoffice		1
	02/28/2008		Commonwealth of Pennsylvania			02/28/2008	Interoffice		
1	03/17/2008		Rule 576 Petition for Bail Reduction Schuylkill County District Attorney's Office		Moll, Ronald Gene	03/17/2008	Hand Delivered		1
1	05/01/2008		Case Scheduling Form		Baldwin, William E.				1
1	06/04/2008		Jury Impaneled		Schuylkill County Court Administration				2
1	06/10/2008		Criminal Jury Trials Scheduled 6/11/2008 8:00AM		Court of Common Pleas - Schuylkill County				
1	06/11/2008		Jury Trial Held		Baldwin, William E.				1

[EXHIBIT 7.8]

## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

Page 10 of 14

v.

Ronald Gene Moll

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>		
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>				
2	06/11/2008		Guilty Plea		Baldwin, William E.		
3	06/11/2008		Pre-Sentence Investigation Ordered		Baldwin, William E. Statewide	1	
4	06/11/2008		Bail Set - Moll, Ronald Gene		Baldwin, William E.		
1	06/13/2008		Evidence Index		Lukach, Stephen M.	1	
1	06/20/2008		Order to Appear for Sentencing		Baldwin, William E.	1	X
2	06/20/2008		Sentencing Scheduled 8/12/2008 9:45AM		Court of Common Pleas - Schuylkill County		
1	07/30/2008		Attachment Order		Baldwin, William E.	1	
1	08/11/2008		Notice of Mandatory Minimum Sentence Case			2	
				[EXHIBIT 7.9] Commonwealth Court of Pennsylvania			

EXHIBIT "A" - PAGE 4 OF 7 PAGES

## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET

Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 11 of 14

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>	
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>			
1	08/12/2008		Order - Sentence/Penalty Imposed		Baldwin, William E.	1
2	08/12/2008		DL-21D to be Prepared		Lukach, Stephen M.	
1	08/14/2008		Penalty Assessed		Court of Common Pleas - Schuylkill County	
2	08/14/2008		Entry of Civil Judgment		Lukach, Stephen M.	
3	08/14/2008		Entry of Civil Judgment		Lukach, Stephen M.	
4	08/14/2008		Court Commitment State or County Correctional Institution		Lukach, Stephen M.	5
1	08/26/2008		Entry of Appearance		Watkins, Kent D.	
2	08/26/2008		Notice of Appeal to the Superior Court		Watkins, Kent D.	12 X
3	08/26/2008		Order Granting In Forma Pauperis		Lukach, Stephen M.	

[EXHIBIT 7.10]



## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 12 of 14

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>
<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>		
4	08/26/2008		Proof of Service		Watkins, Kent D.
5	08/26/2008		Statement of Counsel		Watkins, Kent D.
6	08/26/2008		Affadavit of Defendant		Moll, Ronald Gene
1	08/29/2008		Order Pur to Pa.RAP 1925(b)		Baldwin, William E.
1	09/03/2008		Do Not Pursue Delinquency		Moll, Ronald Gene
1	09/08/2008		Rule 576 Notice of Appeal		Moll, Ronald Gene
			Copy to Deft. of docket entry reflecting appeal filed.		
			Schuylkill County District Attorney's Office		
	09/08/2008		Hand Delivered		
			Schuylkill County Public Defender's Office		
	09/09/2008		Hand Delivered		
			Moll, Ronald Gene		
	09/10/2008		Hand Delivered		
1	09/18/2008		Defendant Transport Sheet		

[EXHIBIT 7.12]

Schuylkill County Prison

EXHIBIT "A" - PAGE 6 OF 7 PAGES



## COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY

## SECURE DOCKET



Docket Number: CP-54-CR-0000669-2007

## CRIMINAL DOCKET

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 13 of 14

## ENTRIES

PGS COV

<u>Sequence Number</u>	<u>CP Filed Date</u>	<u>Document Date</u>	<u>Service To</u>	<u>Service By</u>	<u>Filed By</u>	<u>Issue Date</u>	<u>Service Type</u>	<u>Status Date</u>	<u>Service Status</u>		
1	09/22/2008		Concise Statement of Errors Complained on Appeal		Watkins, Kent D.					2	X
1	10/01/2008		OPinion Pursuant to Pa.R.A.P. 1925		Baldwin, William E.					4	X
1	10/20/2008		Transcript Filed		Schuykill County Stenographer's Office					142	X
1	10/27/2008		Transcript Certified Kimberely A. Miller, Official Court Reporter		Schuykill County Stenographer's Office						
2	10/27/2008		List of Record Documents to Counsel Schuykill County District Attorney's Office 10/27/2008 Hand Delivered Watkins, Kent D. 10/27/2008 Hand Delivered		Lukach, Stephen M.						

EXHIBIT "A" - PAGE 7 OF 7 PAGES

## PAYMENT PLAN SUMMARY

<u>Payment Plan No</u>	<u>Payment Plan Freq.</u>	<u>Next Due Date</u>	<u>Active</u>	<u>Overdue Amt</u>
<u>Responsible Participant</u>		<u>SID</u>	<u>Suspended</u>	<u>Next Due Amt</u>
54-2004-P5025	Monthly	03/01/2005	True	\$220.00
Moll, Ronald Gene			False	\$5.00
Payment Plan History: 02/10/2005 Payment				\$5.00

[EXHIBIT 7.12]

**COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY****SECURE DOCKET**

Docket Number: CP-54-CR-0000669-2007

**CRIMINAL DOCKET**

Court Case

SAME AS 1547 MDA 2008

Commonwealth of Pennsylvania

v.

Ronald Gene Moll

Page 14 of 14

**CASE FINANCIAL INFORMATION**

Last Payment Date:

Total of Last Payment: \$0.00

<b>Moll, Ronald Gene</b> Defendant	<u>Assessment</u>	<u>Payments</u>	<u>Adjustments</u>	<u>Non Monetary</u> <u>Payments</u>	<u>Total</u>
<b>Costs/Fees</b>					
Witness Fees (Schuylkill)	\$9.76	\$0.00	\$0.00	\$0.00	\$9.76
Witness Fees (Schuylkill)	\$9.76	\$0.00	\$0.00	\$0.00	\$9.76
Witness Fees (Schuylkill)	\$9.76	\$0.00	\$0.00	\$0.00	\$9.76
State Court Cost (Act 204 of 1976)	\$11.50	\$0.00	\$0.00	\$0.00	\$11.50
Commonwealth Cost - HB627 (Act 16 of 1992)	\$17.30	\$0.00	\$0.00	\$0.00	\$17.30
County Court Costs (Act 204 of 1976)	\$25.20	\$0.00	\$0.00	\$0.00	\$25.20
Crime Victims Compensation (Act 96 of 1984)	\$35.00	\$0.00	\$0.00	\$0.00	\$35.00
Domestic Violence Compensation (Act 44 of 1988)	\$10.00	\$0.00	\$0.00	\$0.00	\$10.00
Victim Witness Services (Act 111 of 1998)	\$25.00	\$0.00	\$0.00	\$0.00	\$25.00
Firearm Education and Training Fund (158 of 1994)	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
Substance Abuse Education (Act 198 of 2002)	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00
Substance Abuse Education (Act 198 of 2002)	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00
JCP	\$8.00	\$0.00	\$0.00	\$0.00	\$8.00
ATJ	\$2.00	\$0.00	\$0.00	\$0.00	\$2.00
Clerks Fee (Schuylkill)	\$5.00	\$0.00	\$0.00	\$0.00	\$5.00
Prothonotary Satisfaction Fee (Schuylkill)	\$27.00	\$0.00	\$0.00	\$0.00	\$27.00
COC County Court Costs (Schuylkill)	\$50.00	\$0.00	\$0.00	\$0.00	\$50.00
DNA Fund Cost	\$250.00	\$0.00	\$0.00	\$0.00	\$250.00
Costs/Fees Totals:	\$600.28	\$0.00	\$0.00	\$0.00	\$600.28
Grand Totals:	\$600.28	\$0.00	\$0.00	\$0.00	\$600.28

\*\* - Indicates assessment is subrogated

EXHIBIT "B" - PAGE 7 OF 7 PAGES

**[EXHIBIT 7.13]**

2-6-06

EXHIBIT 8

**OFFICE OF THE PUBLIC DEFENDER  
OF SCHUYLKILL COUNTY**

*Public Defenders*  
Harry A. Rubright, Esq.  
Paul Domalakes, Esq.  
Karen Domalakes, Esq.  
Christopher W. Hobbs, Esq.  
Lora J. McDonald, Esq.  
Christopher M. Reidlinger, Esq.  
Andrea L. Thompson, Esq.  
Frank R. Cori, Esq.  
Kent D. Watkins, Esq.

420 North Centre Street  
Pottsville, Pennsylvania 17901

Telephone 570-628-1514 thru 628-1515  
Fax No. 570-628-1512

*Investigators*  
Ronald G. Sverchek  
Louise Howells  
Lori Konitsky  
Jessica Moran

2/6/2008

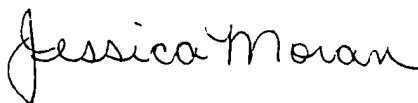
Mr. Ronald Moll  
County Prison  
Pottsville, PA 17901

**RE: Pending Criminal Case**

Dear Mr. Moll:

Attorney Watkins and I have received your recent correspondence. Attorney Watkins informed you at your last meeting that he would look into possibly filing a Motion to Suppress on your behalf. We have looked into this and you were arraigned on July 16, 2007 on these charges. The time frame to file a Suppression Motion is within 30 days of arraignment. Unfortunately, we are definitely outside of that time period. Enclosed for your review, please find all pre-trial discovery that we have received from the District Attorney. We are scheduled to pick a jury the end of February. I will see that you have appropriate clothing for this proceeding. If there is someone that I can call that can bring you your own clothing, please let me know as soon as possible. Please do not hesitate to contact me directly with any questions or concerns.

Very truly yours,



Jessica R. Moran,  
Investigator

JRM  
Cc: File

[EXHIBIT 8]

October 20, 2008

Michael J. Stine, Esquire  
Kent D. Watkins, Esquire  
Office of the Public Defender  
of Schuylkill County  
420 North Centre Street, Suite 7  
Pottsville, PA 17901

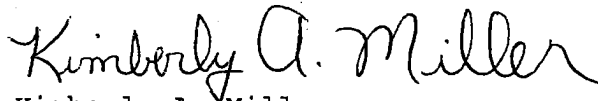
RE: Commonwealth of Pennsylvania v. Ronald Gene Moll  
No. 669 of 2007  
Criminal Jury Trial held on Wednesday, June 11, 2008  
before Honorable William E. Baldwin

Dear Mr. Watkins:

The transcript of the jury trial in the above-captioned matter was lodged on Monday, October 20, 2008, with the Clerk of Courts Office of Schuylkill County.

Pursuant to Pa.R.A.P. No. 1922, you are notified that if no objections are made to the text of the transcript of the above matter within five (5) days after this notice, the transcript will be certified and filed as part of the record of the case.

Respectfully,

  
Kimberly A. Miller  
Official Court Reporter

/kam

cc: Michael A. O'Pake, Esquire  
Assistant District Attorney

[EXHIBIT 9]

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

No. 669 of 2007

v.

RONALD GENE MOLL,

Defendant

Jury Trial

BEFORE: HONORABLE WILLIAM E. BALDWIN  
PRESIDENT JUDGE

APPEARANCES: Michael A. O'Pake, Esquire  
Assistant District Attorney  
for the Commonwealth

Kent D. Watkins, Esquire  
Assistant Public Defender  
for the Defendant

Courtroom No. 4  
Schuylkill County Courthouse  
Pottsville, PA 17901

Wednesday, June 11, 2008

**COPY**

KIMBERLY A. MILLER  
OFFICIAL COURT REPORTER  
Schuylkill County Courthouse  
401 North Second Street  
Pottsville, Pennsylvania 17901  
(570) 628-1328

[EXHIBIT 9.1]

Kimberly A. Miller, Official Court Reporter  
Telephone No.: (570) 628-1328



1	<u>INDEX TO WITNESSES</u>				
2	<u>FOR COMMONWEALTH:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Captain Jamie Gennarini	20	37	42	--
4	Patrolman				
5	Jason R. Hayes	42	47	--	--
6	Rebecca Patrick,				
7	on qualifications	52	--	--	--
8	Rebecca Patrick	57	61	--	--
9	Chief Matthew Nestor,				
10	on qualifications	64	79	--	--
11	Chief Matthew Nestor	80	87	--	--
12	Captain Jamie Gennarini,				
13	recalled	95	--	--	--
14					
15	<u>FOR DEFENDANT:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
16	Ronald Moll	98	103	--	--
17					
18					
19					
20					
21					
22					
23					
24					
25					

[EXHIBIT 9.2]

1	<u>INDEX TO EXHIBITS</u>		
2	<u>COMMONWEALTH EXHIBITS:</u>	<u>MARKED</u>	<u>ADMITTED</u>
3	No. 1 - photograph of an apartment	22	97
4	No. 2 - photograph of an apartment	22	97
5	No. 3 - evidence bag containing a handgun	27	97
6	No. 4 - handgun	28	97
7	No. 5 - evidence bag containing a magazine and loose bullets	29	97
8	No. 6 - blue and black case	30	97
9	No. 7 - evidence bag containing a box of .22 caliber rounds	31	97
10	No. 8 - evidence bag containing a key	32	97
11	No. 9 - plastic wall-mounted telephone	33	97
12	No. 10 - evidence bag containing a blue container	35	97
13	No. 11 - evidence bag containing two packets of methamphetamine, 9.7 grams	36	97
14	No. 12 - lab report prepared by Rebecca Patrick	57	97
15	No. 13 - box of Glad sandwich bags	67	97
16	No. 14 - evidence bag containing a black basket, twist ties, and a makeshift funnel	68	97
17	No. 15 - photograph of a razor blade	69	97
18	No. 16 - evidence bag containing a black leather case with a digital scale	70	97
19	No. 17 - black leather case with a digital scale	71	97
20			

[EXHIBIT 9.3]

(The following was held in Judge  
Baldwin's chambers at 9:35 a.m.):

MR. WATKINS: Well, the first thing I  
wanted to do was request a motion to sever the 18,  
6105(a)(1), former -- prior convict not to own a  
firearm charge from the drug charges. And you're  
going to --

THE COURT: And you -- you didn't know  
this at the time of the pre-trial conference, huh?

MR. WATKINS: No. At the time of the  
pre-trial conference, Mr. Moll was set on getting  
new counsel which he didn't do.

THE COURT: But you were still the  
attorney?

MR. WATKINS: Yes, I was, yes. No, I did  
not do it.

THE COURT: Why didn't you bring it up  
then?

MR. WATKINS: Two reasons. First of all,  
Mr. Moll had contacted Jim Kilker, given him money;  
and Kilker had contacted me. I thought Moll (sic)  
would represent him. Subsequent to that, I had a  
sweetheart deal with this -- with the D.A.'s Office  
which I thought -- I believed he was going to take  
which he didn't. so I didn't go through a motion,

[EXHIBIT 9.4]

1 and that's why I didn't do it.

2 THE COURT: And what's your position?

3 MR. O'PAKE: I understand, Your Honor,  
4 the potential prejudicial value; but at this -- at  
5 this late date that it's being raised now, I would  
6 object to that motion. I think if there's any  
7 prejudice, I think it can be cured by proper  
8 instructions to the jury.

9 THE COURT: Why is it so late? I mean  
10 at what point did you decide to do this? You picked  
11 a jury last week.

12 MR. O'PAKE: And, Your Honor, one other  
13 point. I'm -- I'm fairly certain that during jury  
14 selection I told them of this charge.

15 THE COURT: I would expect you probably  
16 did.

17 MR. O'PAKE: Oh, I'm certain I did. I'm  
18 certain I did, Your Honor.

19 MR. WATKINS: I don't recall.

20 THE COURT: Mr. Moll is worried about  
21 people knowing that he has a prior conviction, and  
22 yet he won't wear street clothes to the trial.

23 MR. WATKINS: Mr. Moll has his own  
24 thoughts on almost everything.

25 THE COURT: He insists on sitting there

[EXHIBIT 9.5]

EXHIBIT 8

1 in front of the jury in prison garb. I'll be back in  
2 a minute.

3 The Judge left the conference at  
4 9:38 a.m. and returned at 9:41 a.m.)

5 THE COURT: You know, these things  
6 keep happening, there's going to be contempt citations  
7 issued. This is -- under the rules, you've waived  
8 this by waiting this long to do it.

9 MR. WATKINS: I believe it's untimely,  
10 Your Honor. Yes, I agree.

11 THE COURT: And if he gets convicted,  
12 then we'll probably come back with a PCRA 'cause you  
13 didn't do what you were supposed to do. I'm going to  
14 grant the severance because we'd be here probably  
15 again. It should have been raised in an omnibus  
16 motion, and there wasn't any question about who the  
17 attorney was at that time.

18 MR. WATKINS: It was Bill Burke, Your  
19 Honor.

20 THE COURT: well, it should have been  
21 done.

22 MR. O'PAKE: Your Honor, we need to  
23 address with the jury the fact that I told them that  
24 that charge was -- was -- was part of this case.

25 THE COURT: We'll just address it at the

[EXHIBIT 9.6]



1 Q. And you found pellets, several containers of  
2 pellets for the pellet gun, correct?

3 A. Yes.

4 Q. And an air rifle with a carrying case, two  
5 air rifles with a carrying case?

6 A. Yes.

7 Q. And again, the air rifle wouldn't  
8 particularly relate to drug trafficking 'cause it's  
9 ineffectual?

10 A. I agree with that.

11 Q. Okay. Now, what you had said, I believe, is  
12 that you came into the apartment; and you and the  
13 other police officers went into the bedroom, got Mr.  
14 Moll; and then Officer Carado arrested him and took  
15 him down to the station for the booking process --

16 A. Yes.

17 Q. -- within like about half an hour or so?

18 A. Yes.

19 Q. Okay. And at that point, you had not found  
20 anything in the apartment, correct?

21 A. We hadn't even begun the search at that point  
22 until Mr. Moll was taken out.

23 Q. Okay. So you arrested him and were going to  
24 start booking him before you found anything; is that  
25 correct?

[EXHIBIT 9.7]

1 MR. O'PAKE: Objection, Your Honor. May  
2 we approach?

3 THE COURT: Yes.

4 (The following discussion was held  
5 at sidebar:)

6 MR. O'PAKE: Your Honor, there was -- as  
7 you know, there was a search warrant in this case; and  
8 the search warrant was executed in response to two  
9 controlled buys that were made by Mr. Moll, and I  
10 believe -- or made from Mr. Moll. I believe that  
11 Chief Nestor was going -- is going to testify in  
12 response to Mr. Watkins' question that he was  
13 arrested and going to be booked pursuant to those  
14 sales.

15 MR. WATKINS: Is that what he was booked  
16 for?

17 MR. O'PAKE: I believe that's what his  
18 response is going to be.

19 THE COURT: Was he ever charged for  
20 those?

21 MR. O'PAKE: He was not charged with  
22 those things, Your Honor. I believe that they were  
23 intending to do that but didn't do it because they  
24 filed these charges instead because what they wanted  
25 to do, Your Honor, my -- my understanding is that

[EXHIBIT 9.8]

*Exhibit 9-A*

1 they wanted to keep the confidential informant  
2 confidential; and that's why they didn't file those  
3 charges. But if they needed to, that's what they were  
4 going to do. !

5 MR. WATKINS: All right. Well, I'll  
6 withdraw the question.

7 MR. O'PAKE: Thank you, Your Honor.

8 (The discussion at sidebar concluded.)

9 MR. WATKINS: I'll withdraw the question.

10 BY MR. WATKINS:

11 Q. You -- did you test the bags for  
12 fingerprints?

13 A. No, I didn't.

14 Q. Did you have them submitted to be tested for  
15 fingerprints?

16 A. The bags were submitted to test the material  
17 inside of them, not for fingerprints.

18 Q. Okay. Was that little plastic case checked  
19 for fingerprints?

20 A. No.

21 Q. What about for residue?

22 A. No.

23 Q. Was it -- can you use a field test or any of  
24 the items in your package of investigative tools to  
25 check items in the field for residue?

*[EXHIBIT 9.9]*

C E R T I F I C A T I O N

Transcript lodged

I hereby certify that pursuant to Pa.R.A.P. No. 1922, I have notified counsel for the parties that if no objections are made to the text of this transcript within five days after such notice, this transcript will become part of the record.

Kimberly A. Miller  
KIMBERLY A. MILLER  
Official Court Reporter

DATE: October 20, 2008

Transcript certified

I hereby certify that the evidence and proceedings are contained fully and accurately in the notes taken by me on the trial of the within cause and that this transcript of such notes is true and correct.

KIMBERLY A. MILLER  
Official Court Reporter

DATE: \_\_\_\_\_

[EXHIBIT 9.10]

## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1547 MDA 2008

Page 1 of 3

November 2, 2009

Secure



## CAPTION

Commonwealth of Pennsylvania

v.

Ronald Gene Moll, Appellant

## CASE INFORMATION

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: December 9, 2008 Awaiting Consideration

Journal Number: J-S81037-09

Case Category: Criminal Case Type(s): Controlled Substance

## CONSOLIDATED CASES

## RELATED CASES

## SCHEDULED EVENT

Next Event Type: Receive Appellee Paperbooks

Next Event Due Date: December 1, 2008

## COUNSEL INFORMATION

**Appellant** Moll, Ronald Gene

Pro Se: No Appoint Counsel Status:

IFP Status: Yes

Attorney: Watkins, Kent D.

Bar No: 026001

Address: 420 N Centre St Ste 7  
Pottsville, PA 17901

Phone No: (570) 628-1515

Fax No:

Phone No: (570) 628-1514

Receive Mail: Yes

Receive EMail: No EMail Address: kwatkins@infionline.net

**Appellee** Commonwealth of Pennsylvania

Pro Se: No Appoint Counsel Status:

IFP Status:

Attorney: Goodman, James Patrick

Bar No: 069599

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401 N Second St  
Pottsville, PA 17901

Phone No: (570) 628-1350

Fax No:

Receive Mail: No

Receive EMail: No EMail Address:

[EXHIBIT 10]



**Appeal Docket Sheet**

Superior Court of Pennsylvania

Docket Number: 1547 MDA 2008

Page 2 of 3

**Secure**

November 2, 2009

**COUNSEL INFORMATION**

**Appellee** Commonwealth of Pennsylvania  
**Pro Se:** No **Appoint Counsel Status:**  
**IFP Status:**

**Attorney:** O'Pake, Michael Andrew  
**Bar No:** 053244  
**Address:** Schuylkill Co District Attorney's Office  
 401 N Second St  
 Pottsville, PA 17901-2520  
**Phone No:** (570) 628-1350 **Fax No:** (570) 628-1010  
**Receive Mail:** Yes  
**Receive EMail:** No **EMail Address:**

**AGENCY/TRIAL COURT INFORMATION**

**Court Below:** Schuylkill County Court of Common Pleas  
**County:** Schuylkill **Division:** Schuylkill County Criminal Division  
**Order Appealed From:** August 12, 2008 **Judicial District:** 21  
**Documents Received:** August 27, 2008 **Notice of Appeal Filed:** August 26, 2008  
**Order Type:** Judgment of Sentence

**Judge, Title:** Baldwin, William E., President Judge

**Lower Court Docket No**  
 CP-54-CR-0000669-2007

**OTN**  
 K4237575

**ORIGINAL RECORD CONTENT**

Original Record Item	Filed Date	Content Description
Part	October 28, 2008	1
Transcripts	October 28, 2008	1
Envelope of Exhibits	October 28, 2008	1
Supplemental Part	November 13, 2008	1
Supplemental Part	February 27, 2009	1

**Date of Remand of Record:****BRIEFING SCHEDULE**

Appellant	Appellee
<b>Moll, Ronald Gene</b>	<b>Commonwealth of Pennsylvania</b>
<b>Brief</b>	<b>Brief</b>
Due: December 8, 2008	Filed: December 8, 2008
	Due: January 7, 2009
	Filed: January 29, 2009

**DOCKET ENTRY**

Filed Date	Docket Entry	Participant Type	Filed By
August 27, 2008	Notice of Appeal IFP Docketed	Appellant	Moll, Ronald Gene
August 29, 2008	Docketing Statement Exited (Criminal)		Middle District Filing Office
September 17, 2008	Docketing Statement Received	Appellant	Moll, Ronald Gene

[EXHIBIT 10.1]

## Appeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 1547 MDA 2008

Page 3 of 3

November 2, 2009

Secure



## DOCKET ENTRY

Filed Date	Docket Entry	Participant Type	Filed By
October 28, 2008	Trial Court Record Received		Lower Court or Agency
December 8, 2008	Application to Withdraw As Counsel	Appellant	Watkins, Kent D.
	Document Name: Application to Withdraw As Counsel Watkins, Kent D.		
December 8, 2008	Turner Letter Brief	Appellant	Moll, Ronald Gene
December 9, 2008	Reply Letter(s) Printed		Middle District Filing Office
December 16, 2008	Reply Received (Submission)	Appellant	Moll, Ronald Gene
January 29, 2009	Appellee's Brief Filed Late	Appellee	Commonwealth of Pennsylvania
March 16, 2009	Application for Relief	Appellant	Moll, Ronald Gene
	Comment: FILED BY PRO SE APLNT.		
May 4, 2009	Order Denying Application for Relief		Per Curiam
	Comment: FILED BY PRO SE ON 3/16/09		
May 15, 2009	Application for Relief	Appellant	Moll, Ronald Gene
	Comment: FILED AS MOTION TO PROCEED PRO SE. COURTSEY COPY TO DA & ATTY WATKINS		
June 25, 2009	Order Denying Application for Relief		Per Curiam
	Comment: FILED 5/15/09.		

## SESSION INFORMATION

Journal Number: J-S81037-09  
Consideration Type: Submitted on Briefs-Panel  
Listed/Submitted Date: November 16, 2009

## Panel Composition:

The Honorable Correale F. Stevens  
The Honorable Joan Orie Melvin  
The Honorable James J. Fitzgerald, III

Judge  
Judge  
Justice of the Pennsylvania Supreme Court

[EXHIBIT 10.2]

IN THE SUPERIOR COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 1547 MDA 2008

:

RONALD GENE MOLL,

:

Appellant

PETITION FOR LEAVE TO WITHDRAW AS COUNSEL

Kent D. Watkins, Esq., submits this Application for Leave to Withdraw as Counsel for the following reasons:

1. Attorney Kent D. Watkins represented the defendant at trial.
2. Counsel filed a Notice of Appeal at request of defendant.
3. Upon review of the record, counsel has determined there are no grounds for appeal

and the appeal is frivolous.

4. In the event the Court grants petition of counsel to withdraw, defendant has the right to proceed pro se or with the assistance of privately retained counsel.

5. Pursuant to this determination, counsel has sent a letter to the Court with a copy to the petitioner dated December 5, 2008, advising that counsel finds no merit to the appeal and is in fact frivolous pursuant to *Commonwealth v. Turner*, 518 Pa. 491, 544 A.2d 927 (1988), a copy of which is attached hereto, made a part hereof and marked Exhibit "A".

WHEREFORE, petitioner's counsel requests this Honorable Court to grant counsel's petition for leave to withdraw his appearance as counsel for the petitioner.

Respectfully submitted,



Kent D. Watkins, Esq.  
Attorney I.D. No. 26001

[EXHIBIT 11]

IN THE SUPERIOR COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 1547 MDA 2008

:

RONALD GENE MOLL

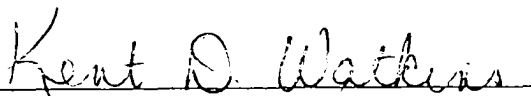
:

CERTIFICATION OF SERVICE

I, Kent D. Watkins, Esq., hereby certify that on December 8, 2008, a copy of the application for leave to withdraw as counsel was sent by first class mail, postage pre-paid, to the following:

James P. Goodman, Esq.  
District Attorney  
401 N. Second St.  
Pottsville, PA 17901

Mr. Ronald Moll  
#HT-0026  
SCI Mercer  
801 Butler Pike  
Mercer, PA 16137

  
Kent D. Watkins, Esq.  
Attorney for Petitioner  
Schuylkill County Public Defender's Office  
420 N. Centre St., Suite 7  
Pottsville, PA 17901  
Attorney I.D. No. 26001

[EXHIBIT 11.1]

1-29-09  
**OFFICE OF THE PUBLIC DEFENDER  
OF SCHUYLKILL COUNTY**

*Public Defenders*

Michael J. Stine, Esq.  
Paul Domalakes, Esq.  
Karen Domalakes, Esq.  
Christopher W. Hobbs, Esq.  
Lora J. McDonald, Esq.  
Christopher M. Reidlinger, Esq.  
Andrea L. Thompson, Esq.  
Kent D. Watkins, Esq.

*420 North Centre Street  
Pottsville, Pennsylvania 17901*

*Telephone 570-628-1514 thru 628-1515  
Fax No. 570-628-1512*

*Investigators*

Ronald G. Sverchek  
Jessica Moran  
Chrissey Dormer  
Tyler Reese

01/29/09

Ronald Moll  
HT-0026  
801 Butler Pike  
Mercer, PA 16137

**RE: Withdrawal**

Dear Mr. Moll:

Enclose is your discovery on your cases. Kent Watkins has withdrawn from your case.

Very truly yours,

Tyler Reese,  
Investigator

TR  
Cc: File

[EXHIBIT 12]



2-13-09

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY—CRIMINAL

COMMONWEALTH OF PENNSYLVANIA

NO. CR-669-2007

vs.

RONALD MOLL, HT0026

Defendant

District Attorney - for the Commonwealth  
Defendant - Pro se

ORDER OF COURT

SCHUYLKILL COUNTY  
2009 FEB 13 PM 3:31  
CJP

BALDWIN, P.J.

AND NOW, 13<sup>th</sup> day of February, 2009, at 3:00 p.m., upon consideration of the defendant's pro se Motion for Reconsideration and Modification, it is hereby ORDERED that said motion is DENIED as timely, as the defendant was sentenced on August 12, 2008, and his case is currently on appeal to the Superior Court, wherein he is represented by counsel. To the extent that defendant attempts to raise claims of ineffective representation by counsel, said claims are premature.

BY THE COURT,

Baldwin, P.J.

[EXHIBIT 13]

IN THE SUPERIOR COURT OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 1547 MDA 2008

:

RONALD GENE MOLL,

:

Appellant

MOTION FOR DISCONTINUANCE RULE(6523-B)

AND NOW COMES THE DEFENDANT RONALD MOLL WHO HEREBY MOVES  
THIS HONORABLE COURT IN THE ABOVE SAID PETITION FOR DISCONTINUANCE AND  
STATES THE FOLLOWING IN SUPPORT THERE OF.

ON JAN, 29TH, THE DEFENDANT, S COUNSEL NOT ONLY FILE A BOILER  
PLATE AURGUMENT WITH THIS COURT BUT IT WAS UNCOMPLIANT AND LATE (SEE EXHIBIT-A)  
RENDERING COUNSEL INEFFECTIVE AND THE DEFEENDANTS BREIF LACKING SUBSTANCIAL  
AURGUMENT, GIVING CAUSE TO THIS DEFENDANT FILING THE MOTION HEREIN FOR LEAVE  
TO FILE A PCRA AND PRAYS THAT THIS HONORABLE COURT WILL FIND JUST CAUSE TO GRANT  
THIS DEFENDANTS MOTION.

MOTION FOR PRO SE STATUS (RULE 65240)

THIS DEFENDANT MOVES THIS HONORABLE COURT TO GRANT THIS DEFENDANT  
PROSE STATUS BASED UPON HIS ATTORNEYS WITHDRAW FROM THE CASE(SEE EXHIBIT B)

WHERE FOR THIS DEFENDANT PRAYS THAT THIS HONORABLE COURT WILL FIND  
JUST CAUSE TO GRANT THE ABOVE AFORESAID MOTION.

[EXHIBIT 14]

CERTIFICATE OF SERVICE

I RONALD MOLL DO HEREBY CERTIFY THAT ON MARCH 11, 2009 I DID SERVE THE FOLLOWING MOTION CONTAINED HEREIN TO THE OFFICES LISTED BELOW

OFFICE OF THE PROTHONOTARY  
401 N SECOND ST  
POTTSVILL PA 17901

OFFICE OF THE DISTRICT ATTORNEY  
401 N SECOND ST  
POTTSVILL PA 17901

HONORABLE JUDGE BALDWIN  
401 N SECOND ST  
POTTSVILL PA 17901

SUPERIOR COURT  
OFFICE OF THE PROTHONOTARY  
100 PINE ST STE 400  
HARRISBURGH PA 17101

KENT WATKINS  
420 N CENTRE ST  
POTTSVILL PA 17901

DATED THIS 12 DAY OF MARCH 2009

Ronald Moll  
RONALD MOLL

I RONALD MOLL DO HEREBY SWEAR THAT THE STATEMENTS MADE HEREIN ARE TRUE AND CORRECT AND IN ACCORDANCE WITH 4904 (FALSIFICATION TO AUTHORITIES).

DATED THIS 12 DAY OF MARCH 2009

Ronald Moll  
RONALD MOLL

[EXHIBIT 14.1]

Commonwealth of Pennsylvania	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
	:	
	:	(C.P. Schuylkill Co. No. CP-
v.	:	54-CR-0000669-2007)
	:	
	:	No. 1547 MDA 2008
Ronald Gene Moll	:	Filed: May <u>4</u> , 2009

**ORDER**

As Appellant is represented by counsel, his *pro se* application for relief, filed March 16, 2009, is hereby **DENIED**. *See Commonwealth v. Ellis*, 626 A.2d 1137 (Pa. 1993) (disapproving of *pro se* filings by counseled appellants).

**Per Curiam**

TRUE COPY FROM RECORD

Attest: MAY 04 2009



Prothonotary

Superior Court of PA - Middle District

[EXHIBIT 15]

J. S81037/09

**NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT I.O.P.65.37**

COMMONWEALTH OF PENNSYLVANIA,	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellee	:	
	:	
v.	:	
	:	
RONALD GENE MOLL,	:	
	:	
Appellant	:	No. 1547 MDA 2008

Appeal from the Judgment of Sentence entered August 12, 2008  
In the Court of Common Pleas of Schuylkill County  
Criminal No.: CP-54-CR-0000669-2007

BEFORE: STEVENS, DONOHUE, and FITZGERALD\*, JJ.

MEMORANDUM:

FILED: April 14, 2010

Appellant, Ronald Gene Moll, appeals from the judgment of sentence entered in the Schuylkill County Court of Common Pleas, following his conviction for possession with the intent to distribute a controlled substance ("PWID").<sup>1</sup> Appellant's counsel improperly filed a **Turner/Finley**<sup>2</sup> letter seeking withdrawal of representation on direct appeal.<sup>3</sup> Under the

---

\* Former Justice specially assigned to the Superior Court.

<sup>1</sup> 35 P.S. § 780-113(30).

<sup>2</sup> **Commonwealth v. Turner**, 518 Pa. 491, 494, 544 A.2d 927, 928 (1988); **Commonwealth v. Finley**, 550 A.2d 213, 215 (Pa. Super. 1998) (*en banc*).

<sup>3</sup> It is well-settled that "**Anders** applies to direct appeals; **Turner/Finley** applies to PCRA cases." **Commonwealth v. Wrecks**, 931 A.2d 717, 722 (Pa. Super. 2007).

[EXHIBIT 16]

J. S81037/09

circumstances, however, we grant counsel's application for leave to withdraw and affirm.

The trial court opinion accurately and thoroughly sets forth the relevant facts and procedural history, so we do not restate them here. **See** Trial Ct. Op. at 2-4.

As a prefatory matter, we examine whether counsel's purported **Turner/Finley** brief complies with the requirements of **Anders v. California**, 386 U.S. 738 (1967), and **Commonwealth v. McClendon**, 495 Pa. 467, 434 A.2d 1185 (1981), as clarified by the Pennsylvania Supreme Court in **Commonwealth v. Santiago**, \_\_\_ Pa. \_\_\_, 978 A.2d 349 (2009). "When faced with a purported **Anders** brief, this Court may not review the merits of any possible underlying issues without first examining counsel's request to withdraw." **Commonwealth v. Wimbush**, 951 A.2d 379, 382 (Pa. Super. 2008) (citation omitted).

[W]e hold that in the **Anders** brief that accompanies court-appointed counsel's petition to withdraw, counsel must: (1) provide a summary of the procedural history and facts, with citations to the record; (2) refer to anything in the record that counsel believes arguably supports the appeal; (3) set forth counsel's conclusion that the appeal is frivolous; and (4) state counsel's reasons for concluding that the appeal is frivolous. Counsel should articulate the relevant facts of record, controlling case law, and/or statutes on point that have led to the conclusion that the appeal is frivolous.

[EXHIBIT 16.1]



J. S81037/09

**Santiago**, \_\_\_ Pa. at \_\_\_, 978 A.2d at 361.<sup>4</sup>

Instantly, counsel's application for leave to withdraw and appellate brief comply with the technical requirements of **Anders**. *See id.* Counsel has cited a conscientious examination of the record and found the appeal frivolous. Further, the application and brief set forth the issue, "cite[] relevant legal authorities, reference[] appropriate portions in the record to aid our review" and conclude the appeal is frivolous. *See id.* Counsel also explains his reasons for concluding the appeal is frivolous, and explicitly states that the record does not reveal any other basis for appeal. *See id.*<sup>5</sup> The record also establishes Appellant was served a copy of the brief and application, which advised Appellant of the right to retain new counsel, or proceed *pro se* and raise additional issues to this Court. *See id.*

Having concluded counsel's petition and brief satisfy the technical **Anders** requirements, we conduct our own independent review to determine whether the appeal is wholly frivolous. Counsel raises one issue on appeal:

Verdict contrary to law. Viewing the evidence admitted at trial, in the light most favorable to the Commonwealth, there is not sufficient evidence to find every element of the

---

<sup>4</sup> The **Santiago** Court specifically held that a "discussion of counsel's reasons for believing that the client's appeal is frivolous" must be included in "briefs in cases where the briefing notice is issued" after August 25, 2009. *Id.* at \_\_\_, 978 A.2d at 360, 361.

<sup>5</sup> Although counsel's brief and application to withdraw were filed prior to August 25, 2009, it complies with the **Santiago** requirements.

[EXHIBIT 16.2]

J. S81037/09

crime of possession with intent to deliver a controlled substance beyond a reasonable doubt.

Pa.R.A.P. 1925(b) Statement, filed 9/22/08.<sup>6</sup>

As a prefatory matter, we examine whether Appellant has properly preserved his challenge to the sufficiency of the evidence. This Court has stated:

If Appellant wants to preserve a claim that the evidence was insufficient, then the 1925(b) statement needs to specify the element or elements upon which the evidence was insufficient. This Court can then analyze the element or elements on appeal.

**Commonwealth v. Williams**, 959 A.2d 1252, 1257 (Pa. Super. 2008) (citation and emphasis omitted). However, in a relatively straightforward, uncomplicated case, this Court should conduct the requested sufficiency review. **Commonwealth v. Laboy**, 594 Pa. 411, 415, 936 A.2d 1058, 1060 (2007) (*per curiam*). Instantly, although Appellant's Rule 1925(b) statement fails to identify the element or elements upon which the evidence was insufficient, this is a relatively uncomplicated case. **See Laboy**, 594 Pa. at 415, 936 A.2d at 1060; **Williams**, 959 A.2d at 1257.

Our scope of review is plenary and the standard of review is *de novo*. **Commonwealth v. Ratsamy**, 594 Pa. 176, 180, 934 A.2d 1233, 1235 (2007).

---

<sup>6</sup> Appellant has not filed an additional counseled or *pro se* brief.

[EXHIBIT 16.3]

J. S81037/09

The test for determining the sufficiency of the evidence is whether, viewing the evidence in the light most favorable to the Commonwealth as verdict winner and drawing all proper inferences favorable to the Commonwealth, the fact-finder could reasonably have determined all elements of the crime to have been established beyond a reasonable doubt. This standard is equally applicable to cases where the evidence is circumstantial rather than direct so long as the combination of the evidence links the accused to the crime beyond a reasonable doubt.

In applying this test, we may not weigh the evidence and substitute our judgment for that of the fact-finder. In addition, we note that the facts and circumstances established by the Commonwealth need not preclude every possibility of innocence. Any doubts regarding a defendant's guilt may be resolved by the fact-finder unless the evidence is so weak and inconclusive that as a matter of law no probability of fact may be drawn from the combined circumstances.

***Commonwealth v. Cassidy***, 668 A.2d 1143, 1144 (Pa. Super. 1995)

(citations and punctuation omitted).

With respect to a challenge to the sufficiency of evidence to support a conviction for possession with intent to distribute, it is well-settled that:

The Commonwealth must prove both the possession of the controlled substance and the intent to deliver the controlled substance. It is well settled that all the facts and circumstances surrounding possession are relevant in making a determination of whether contraband was possessed with intent to deliver.

In Pennsylvania, the intent to deliver may be inferred from possession of a large quantity of controlled substance. It follows that possession of a small amount of a controlled substance supports the conclusion that there is an absence of intent to deliver.

Notably, if, when considering only the quantity of a controlled substance, it is not clear whether the substance

J. S81037/09

is being used for personal consumption or distribution, it then becomes necessary to analyze other factors.

**Commonwealth v. Brown**, 904 A.2d 925, 931-32 (Pa. Super. 2006) (citation and quotation marks omitted). "Where . . . the contraband is not found on the accused's person, the Commonwealth must demonstrate he had constructive possession of the same, or that the individual had the ability and intent to exercise control or dominion over the substance." **Commonwealth v. Hutchinson**, 947 A.2d 800, 806 (Pa. Super. 2008), *appeal denied*, \_\_\_ Pa. \_\_\_, 980 A.2d 606 (2009). "Constructive possession may be established by the totality of the circumstances." **Commonwealth v. Bricker**, 882 A.2d 1008, 1014 (Pa. Super. 2005). The quantity of the controlled substance may also be dispositive of an intent to distribute. **Ratsamy**, 594 Pa. at 183, 934 A.2d at 1237.

After a thorough review of the parties' briefs, the certified record, the trial transcript, and the well-reasoned decision of the trial court, we affirm the judgment of sentence based on the trial court's opinion. **See** Trial Ct. Op. at 2-7 (discussing: police's and Appellant's testimony regarding recovery of 9.7 grams of methamphetamine and other drug paraphernalia; and Appellant's testimony explaining possession of drug paraphernalia and denial of knowledge of possession of drugs). The jury evaluated the credibility of all witnesses, **see Cassidy**, 668 A.2d at 1144, and after viewing the record in the light most favorable to the Commonwealth, a reasonable fact-finder could have concluded the Commonwealth established all of the elements of

J. S81037/09

possession with intent to distribute. **See generally Brown**, 904 A.2d at 931-32. Our independent review of the certified record reveals no other issue of arguable merit. Accordingly, we conclude the appeal is frivolous and grant counsel's application for leave to withdraw.

Judgment of sentence affirmed. Application for leave to withdraw granted.

Judge Stevens Concurrs in the Result.

Judgment Entered.

  
Deputy Prothonotary

Date: April 14, 2010

[EXHIBIT 16.6]

# No bail for chief in alleged cover-up

*Police terrorize  
minorities in Pa. town,  
lawyer claims*

THE ASSOCIATED PRESS

SHENANDOAH, Pa. — A Schuylkill County police chief ordered held without bail Wednesday on charges he tried to cover up the fatal beating of a Mexican immigrant by white teenagers was named in a 2006 lawsuit that claimed police beat to death a Hispanic teenager, then made it look like a suicide.

Police Chief Matthew Nestor was never charged, but the allegations included in the suit, in Tuesday's indictment and in other civil claims depict a police department with pervasive hostility to minorities and a penchant for using excessive force.

Police "acted as feudal warlords in this coal town community that people were afraid of," said attorney John Karoly, who represents the parents of 18-year-old David Vega in their

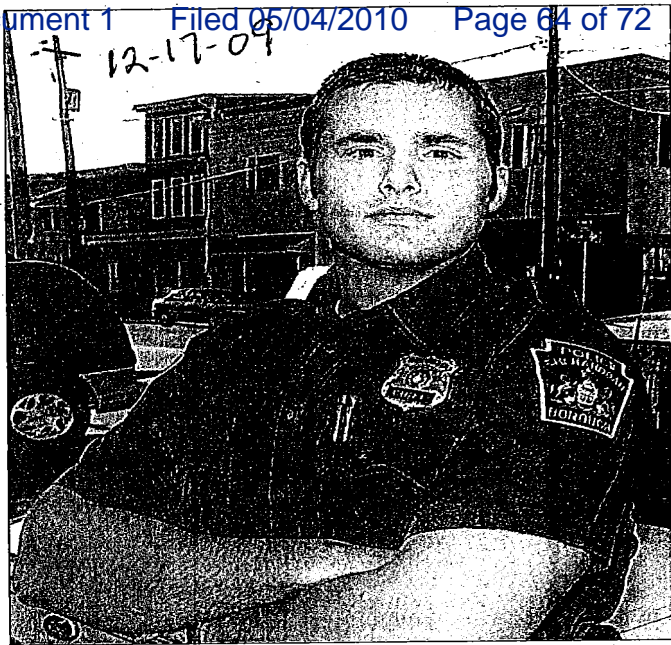
federal lawsuit against the borough. Karoly said he wasn't suggesting police were abusive to everyone, "but I would say the pattern certainly starts to appear that minorities took the thrust of their abuse."

The suit names Nestor and Capt. Jamie Gennarini as defendants, as well as the borough of Shenandoah. The officers have denied wrongdoing. A civil trial is scheduled for summer.

Nestor, 33, and two other officers were charged Tuesday with orchestrating a cover-up as the FBI investigated the fatal attack on Luis Ramirez by a group of high school football players. Gennarini and Nestor were indicted separately in a scheme to extort money from illegal gambling operations.

At a bail hearing yesterday in Wilkes-Barre, Nestor was ordered held until trial. Judge Malachy Mannion called Nestor "clearly, unequivocally, a serious danger to witnesses in this case."

The officers pleaded not guilty before a federal magis-



Shenandoah police Chief Matthew Nestor is charged in an alleged cover-up in the fatal beating of Mexican immigrant Luis Ramirez.

trate in Wilkes-Barre and the other two were released to home confinement.

A third federal indictment charges teenagers Brandon

Piekarsky and Derrick Donchak with a hate crime in connection with the July 2008 attack on Ramirez, 25, an illegal immigrant from Mexico.

## SHENANDOAH: Four borough police officers resign

Continued from page 1

Derrick Donchak, 19, who pleaded not guilty to a hate crime charge in the death of the Mexican immigrant.

Judge Malachy Mannion ruled that Piekarsky and Donchak should remain locked up pending trial, calling them dangers to the community. He set a March trial date.

In May, a Schuylkill County jury acquitted the teens of the most serious state charges against them — including third-degree murder in Piekarsky's case — angering Hispanic leaders and civil-rights groups. Gov. Ed Rendell then asked the Justice Department to pursue civil rights charges.

The judge noted that it is extremely rare for the fed-

eral government to pursue charges in a case already decided in state court.

William Petherhoff, Donchak's lawyer, denounced the federal charges as "tragic" and "extremely unjustified."

"In most civilized countries in the western world, people are only tried once" for the same crime, he said outside court.

James Swetz, Piekarsky's lawyer, said he plans to challenge the government's jurisdiction in the case.

Prosecutors have cast Ramirez as the victim of a gang of drunken white teens motivated by their dislike of their small coal town's burgeoning Hispanic population. Ramirez, a native of central Mexico,

was in the United States illegally working at various jobs.

The confrontation began when a half-dozen high school football players were headed home from a block party in Shenandoah. They came across Ramirez and his 15-year-old girlfriend in a park and an argument broke out, followed by a melee.

Piekarsky was accused of delivering a fatal kick to Ramirez's head after he'd already been knocked unconscious by another teen, Colin Walsh, who pleaded guilty earlier this year in federal court to violating Ramirez's civil rights. Donchak took part in the fight and then conspired with Shenandoah police to cover up the crime, federal

prosecutors said.

Piekarsky was acquitted in May by an all-white jury of third-degree murder and ethnic intimidation; Donchak was acquitted of aggravated assault and ethnic intimidation. Both were convicted of simple assault.

Noting that Donchak has spent 70 days of his state sentence in solitary confinement for breaking prison rules, Mannion told the teen: "It's not exactly appearing that you're getting the point here, and that's something that's hard to understand."

Piekarsky's mother, Tammy Piekarsky, dated one of the officers charged and is herself named as an unindicted co-conspirator for her role in the alleged cover-up.



Shenandoah Police  
Officer Derrick Donchak



Shenandoah Police  
Officer Derrick Donchak



Shenandoah Police  
Officer Derrick Donchak

Shenandoah Police  
Officer Derrick Donchak



Shenandoah Police  
Officer Derrick Donchak

[EXHIBIT 17]



WEDNESDAY

DECEMBER 30, 2009

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NEWSSERVING THE PEOPLE OF CARBON, SCHUYLKILL,  
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DELIVERY

PENNSYLVANIA

3 officers charged in  
fatal beating cover-up

**SHENANDOAH** — Federal prosecutors charged three police officers in a racially tense coal town with orchestrating a cover-up in the fatal beating of a Mexican immigrant by altering evidence or lying to the FBI in a case against two white high school football players.

A federal indictment announced Tuesday in Washington revealed close ties between the officers and defendants: One dated the mother of an accused player, and another had a son on the team.

The former athletes, ages 18 and 19, now are charged with a federal hate crime in the beating death of Luis Ramirez in a park on a night in July 2008 as they headed home from a party.

State prosecutors who tried to win murder or ethnic intimidation convictions against the athletes had

alleged that the attackers yelled racial epithets at Ramirez and that one gripped a piece of metal to give his punches more power.

At the Please Touch Museum, every New Year's Eve brings a new tradition: the ones can welcome

4 Shenandoah  
officers resign

**SHENANDOAH, Pa.** — Four northeastern Pennsylvania police officers who were arrested Dec. 15 on federal charges have resigned from their jobs.

The Shenandoah Borough Police Department has only three officers after the resignations of Chief Matthew Nestor, Capt. Jamie Gennarini, Officer Jason Hayes and Lt. William Moyer were accepted Tuesday night. State police are helping patrol the town.

Nestor, Moyer and Hayes are accused of orchestrating a cover-up in the fatal beating of a Mexican immigrant by altering evidence or lying to the FBI in a case

against two white high school football players. Nestor and Gennarini are charged with extortion and civil rights violations in a separate case. Messages left late Tuesday seeking comment from defense lawyers were not immediately returned.

See **SHENANDOAH**  
on Page 2

## COVER-UP: Feds charge two teens in hate crime death

Continued from page 1

Gennarini, were charged with extortion and civil rights violations in a separate case. The two are accused of extorting cash payoffs from illegal gambling operations and demanding a \$2,000 payment from a local businessman in 2007 to release him from their custody.

The officers pleaded not guilty before a federal magistrate in Wilkes-Barre and were being held until a bail hearing Wednesday. Donchak and Plekarsky have an initial court appearance scheduled for Dec. 22.

Plekarsky's lawyer didn't return a call, and there was no lawyer listed for Donchak on the indictment. State prosecutors who tried to win murder or ethnic intimidation convictions

against the athletes had alleged that they yelled racial epithets at Ramirez and that one gripped a piece of metal to give his punches more power.

The federal indictment brought praise from those who had long argued that the case was blatantly a hate crime and were outraged when the teenagers won acquittals on the most serious charges.

"This is what our family, friends and ongoing supporters have prayed for," said Crystal Dillman, who

had two children with Ramirez, in a statement released by the Mexican American Legal Defense & Educational Fund. "I truly believe in my heart that Luis can now rest a bit more peacefully knowing that these criminals and accomplices are being charged."

The arrests left the borough with only three active-duty police officers. Borough officials have asked the state police to help out "until we work through this dilemma," said Borough Manager Joseph Palubinski, who declined to comment on the indictment.

Barry Morrison, the Philadelphia-based regional director of the Anti-Defamation League, said the organization has visited the town several times and found evidence of racial divisions.

"There's nothing that we saw in the way that law enforcement conducted themselves to show that they were enlightened, progressive or separate and apart of the insularity of the community as a whole," he said.

Shenandoah, a blue-collar town of 5,000 residents, is best known as the birthplace of big band musicians Tommy and Jimmy Dorsey and the home of Mrs. T's Pierogies.

It's also got a growing number of Hispanic residents drawn by jobs in factories and farm fields. Hispanics are believed to comprise as much as 10 percent of the population. Ramirez, a 25-year-old native of the small central Mexican town of Iramocho, was in the United States illegally working at various jobs.

The confrontation began when a half-dozen high school football players were headed home from a block party in Shenandoah. They came across Ramirez and his girlfriend in a park, and an argument broke out, then a fight. Defense attorneys called Ramirez the aggressor. Prosecutors said he was punched in the face, then was kicked in the head while unconscious.

The teens gathered at Donchak's home shortly after the attack ended, the indictment said. Plekarsky's mother showed up and told them that she had been in contact with her boyfriend, Hayes, and that they needed to "get their stories straight" because Hayes had told her that Ramirez's condition was deteriorating, it said.

Moyer separately went to the home of another teen present during the attack "and told him to talk to his friends about the version of events that would be communicated to the authorities," the indictment said. A borough official tried to get the police department to recuse itself, but Nestor refused the indictment said Donchak, Plekarsky and a third teen, Colin Walsh, were previously charged in state court with Ramirez's death. Walsh later pleaded guilty in federal court to violating the victim's civil rights and took the stand against Donchak and Plekarsky at their trial in the spring.

Plekarsky was acquitted in May by an all-white jury of third-degree murder and ethnic intimidation. Donchak was acquitted of aggravated assault and ethnic intimidation. Both were convicted of simple assault.

Plekarsky was sentenced in June to six to 23 months in prison, and Donchak was sentenced to seven to 23 months. They are serving their sentences at the Schuylkill County Jail.

A fourth teen was found delinquent in juvenile court for his role in the beating. If convicted on the hate crime charge, Plekarsky and Donchak face maximum sentences of life in prison. The most serious count against the officers, obstruction, carries a maximum sentence of 20 years in prison.

*(Matthew reported from Wilkes-Barre. Associated Press writers Devin Barrett in Washington and Patrick Walters in Philadelphia contributed to this report.)*

Local News  
Philadelphia  
& the Region

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SECTION  
D

[EXHIBIT 17.2]

THURSDAY, DECEMBER 17, 2009

## NATION/WORLD

TIMES NEWS 13.

E-Mail: jzbick@tnonline.com



# Shenandoah police face civil charges

## Lawsuit claims that police made the 2006 death of a Hispanic teen look like a suicide

By MICHAEL RUBINKAM  
Associated Press Writer

SHENANDOAH, Pa. (AP) — A police chief ordered held without bail on charges he tried to cover up the fatal beating of a Mexican immigrant by white teenagers was named in a 2006 lawsuit that claimed police beat to death a Hispanic teenager, then made it look like a suicide.

Police Chief Matthew Nestor was never charged, but the allegations contained in the suit, in Tuesday's indictment and in other civil claims depict a police department with pervasive hostility to minorities and a penchant for using excessive force.

Police "acted as feudal warlords in this coal town community that people were afraid of," said attorney John Karoly, who represents the parents of 18-year-old David Vega in their federal lawsuit against the borough. Karoly said he wasn't suggesting police were abusive to everyone, "but I would say the pattern certainly starts to appear that minorities took the thrust of their abuse."

The suit names Nestor and Capt. Jamie Gennarini as defendants, as well as the borough of Shenandoah. The officers have denied wrongdoing. A civil trial is scheduled for next summer.

Nestor, 33, and two other officers were charged Tuesday with orchestrating a cover-up as the FBI investigated the fatal attack on Luis Ramirez by a group of high school football players. Gennarini and Nestor were indicted separately in a scheme to extort money from illegal gambling operations.

On Wednesday, Nestor was ordered held until trial at a bail hearing in Wilkes-Barre. Judge Malachy Mannion called Nestor "clearly, unequivocally a serious danger to witnesses in this

case."

At the hearing, a federal prosecutor alleged that Nestor drove a cooperating witness in the extortion investigation to an isolated area and ordered him to strip down before returning him unharmed to his home.

The officers pleaded not guilty before a federal mag-

**"A big group of Spanish people moved into Shenandoah, and they didn't know how to react to that. Were they fair to us? No. They're fair to their own kind. The outsider always had to pay."**

CARLOS VEGA,  
VICTIM'S FATHER

istrate in Wilkes-Barre and Gennarini and the other two officers were released to home confinement.

A third federal indictment charges teenagers Brandon Piekarsky and Derrick Donchak with a hate crime in connection with the July 2008 attack on Ramirez, 25, an illegal immigrant from Mexico. Donchak and Piekarsky have an initial court appearance scheduled for Tuesday. Their lawyers did not return phone messages Wednesday.

Donchak and Piekarsky were previously charged in state court with Ramirez's death.

Piekarsky was acquitted in May by an all-white jury of third-degree murder and ethnic intimidation; Donchak was acquitted of aggravated assault and ethnic intimidation. Both were convicted of simple assault. Piekarsky is scheduled to be released from jail Thursday. Donchak remains locked up.

Early in the Ramirez investigation, Schuylkill County prosecutors determined that they had a serious problem with the Shenandoah police, District Attorney James Goodman said Wednesday. No Shenandoah officers were called to testify at the trial.

"We determined the police did not do their job and they were partly involved with this cover-up," said Goodman, adding that he asked the Justice Department to investigate the force.

"It was pretty troubling and it obviously caused problems with the prosecution in the case and made the case more difficult," Goodman said.

Police in this blue-collar town of 5,000, about 80 miles northwest of Philadelphia, face other accusations of wrongdoing.

Gennarini and Capt. Raymond Nestor — the father of the police chief — arrested David Vega at his home shortly before 8:55 p.m. on Nov. 28, 2004, while responding to a report of a domestic dispute, according to court documents.

"While in police custody ... Vega was beaten to death and then hung from the bars of a holding cell to make it appear as if he had committed suicide," the lawsuit said.

Vega was pronounced dead at 10:50 p.m.

His father, Carlos Vega, said Wednesday that he had no doubt what happened to his son. Vega, a retired



AP PHOTO

This file photo shows Brandon Piekarsky, one of the suspects in the 2008 fatal beating case of Luis Ramirez, being escorted into the Schuylkill County Courthouse in Pottsville. On Wednesday, charges continued to pile up against the Shenandoah police department as new allegations of another beating death surfaced in a civil lawsuit.

chef who moved to Shenandoah 19 years ago, said he's afraid to leave his own house for fear of the police.

"A big group of Spanish people moved into Shenandoah, and they didn't know how to react to that," said Vega, who was born in New York and is of Puerto Rican descent.

"Were they fair to us? No. They're fair to their own kind. The outsider always had to pay."

An autopsy conducted by the county coroner determined Vega's son committed suicide, but Karoly said the coroner accepted Matthew Nestor's explanation that Vega's bruises had come earlier as he resisted arrest. A second autopsy arranged by the family confirmed Vega "suffered extensive, massive injuries consistent with a profound beating. ... The defendant did not die of hanging," the suit said.

Vega had a new girlfriend and was meeting with military recruiters about earning money for college, Karoly said.

"He had everything to live for," he said. "The kid was on top of the world and had no reason to commit suicide."

Nestor's attorney insists otherwise, writing in court papers: "The only credible independent evidence to date establishes that David Vega committed suicide."

Nestor faces yet another lawsuit, this one filed by a Shenandoah man arrested by the chief and another officer on a drug charge March 11.

David Murphy Sr., who is also represented by Karoly, claims Nestor and another officer made him turn over his prescription blood thinner at the police station, then refused to allow him to take his evening dose. Nestor also punched Murphy in the back, where he had recently undergone spinal fusion surgery, the lawsuit said.

The officers left Murphy in a holding cell overnight. He "started to experience severe pain in his chest and arm ... but there was no one in the station to hear his cries for help," the suit said. He passed out; Karoly said he suffered a heart attack. He spent four days in a hospital.

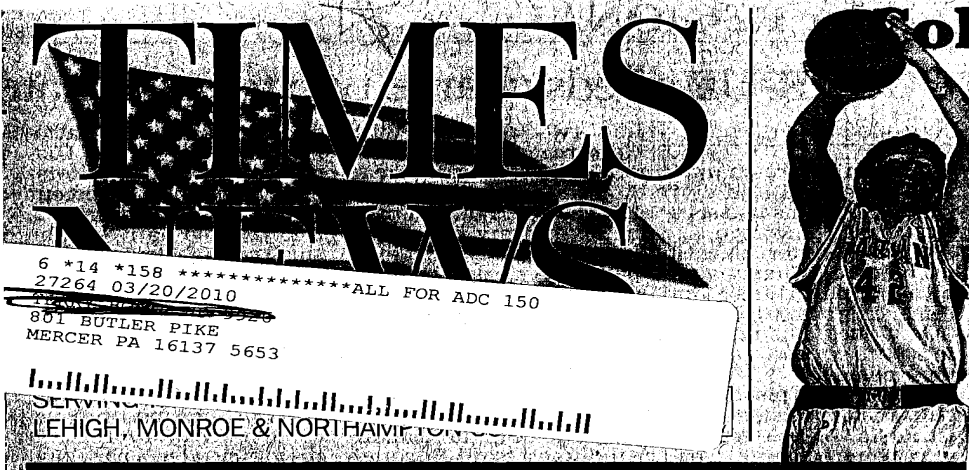
Murphy, who is black, claims Nestor threatened to kill him if he filed suit.

The chief told Murphy he would not "make it out of the Shenandoah jail alive ... that (he) would end up like that Mexican who 'hung' himself," the suit said.

Associated Press writer Kathy Matheson in Wilkes-Barre, Pa., and AP researcher Rhonda Shafner in New York contributed to this report.



[EXHIBIT 17.3]



# Cover-up in Shenandoah

## Feds charge two teens in hate crime death; four police officers also face federal charges

By MICHAEL RUBINKAM  
and KATHY MATHESON  
Associated Press Writers

SHENANDOAH, Pa. (AP) — After taking part in a fight that left a Mexican immigrant mortally wounded on the street, teenagers Brandon Piekarsky and Derrick Donchak fled. They didn't get very far before running into two police officers responding to a 911 call about the assault.

These were no ordinary officers. Patrolman Jason Hayes dated Piekarsky's mother, and Lt. William Moyer's son played with Piekarsky on the high school football team. Their commanding officer, Chief Matthew Nestor, was a friend of Piekarsky's mother and even vacationed with her.

Rather than place the popular white football players under arrest, the officers let them go — beginning a cover-up in their racially tense coal town, federal prosecutors allege.

The Department of Justice said Tuesday that Hayes, Moyer and Nestor have been indicted on obstruction charges for trying to "impede, obstruct and influence the investigation" into the July 2008 beating death of Luis Ramirez by tampering with evidence and witnesses or lying to the FBI.

The former athletes, who were acquitted of the most serious state charges against them in May, are charged with a federal hate crime for attacking Ramirez in a park as they headed home from a party, the Department of Justice said.

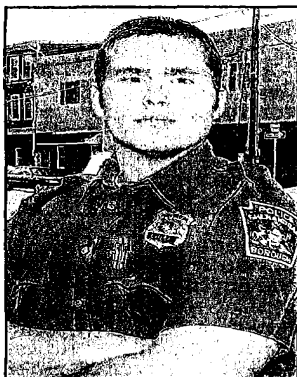
The police chief and his second in command, Jamie See **COVER-UP** on Page 2



REPUBLICAN-HERALD PHOTOS BY JACQUELINE DORMER  
**Brandon J. Piekarsky**



**Derrick M. Donchak**



**Shenandoah Police  
Chief Matthew Nestor**



**Shenandoah Police  
Capt. Jamie Gennarini**



**Police Patrolman  
Jason Hayes**



**Shenandoah Police  
Lt. William Moyer**

# Corruption rampant in nor

ASSOCIATED PRESS

**WILKES-BARRE** — After a six-year run in the NFL, Greg Skrepenak came home to Pennsylvania and parlayed his name recognition and hometown popularity into a seat on the Luzerne County Board of Commissioners.

He'd campaigned as a reformer. It turns out he was anything but: Prosecutors charged him last month with accepting \$5,000 in gifts from a developer seeking public financing of a condominium project. He is scheduled to plead guilty on Tuesday.

Another day, another fallen politician in the coal fields of northeastern Pennsylvania, where FBI agents and federal prosecutors have spent the past year rooting out government corruption in a hardscrabble region known for its pay-to-play politics, suspicion of outsiders and resistance to political change.

Twenty-three people in Luzerne County — including a school superintendent, three county judges, four courthouse officials and five school board members — have been charged so far in a variety of unrelated schemes.

In the most egregious abuse of the public's trust, two judges are charged with taking \$2.8 million in kickbacks to place youth offenders in for-profit detention facilities — a scandal known as "kids for cash." While thousands of juvenile convictions have been dismissed by the state Supreme Court, youth advocates say the lives of countless children and their families were ruined.

The ongoing federal corruption probe has sent tremors through an insular political culture where graft, patronage and nepotism have been accepted practice since the golden age of anthracite coal a century ago — when waves of European immigrants arrived in this mountainous region 100 miles north of Philadelphia to work in mines, breweries and railroads. Their descendants still live in the tiny patch towns and tightly packed houses built by long-defunct coal companies.

Most of the charges filed over the past year involve public officials accepting cash or gifts — a \$1,500 suit, for example — in exchange for helping contractors win government work or some other benefit. A few officials are charged with the outright theft of taxpayer dollars. The FBI also is looking into allegations that candidates for public school teaching positions paid bribes to

school board members to land jobs.

"Things have been like this for so long that I don't think many people see a lot of wrong in what they've done," said Skrepenak, 39, a former offensive lineman who played for the Oakland Raiders and Carolina Panthers in the 1990s.

"I believe any elected official of the last five years is at risk" of prosecution, he added. "I don't think many of them truly know what they can and cannot do."

Few in the coal region are surprised. Machine-style politics has flourished here for decades; government jobs and other taxpayer-funded goodies are often doled out to the politically connected, not just in Luzerne County but throughout the area. Federal prosecutors, in fact, have set their sights on the courthouse in neighboring Lackawanna County, and indictments are widely expected.

To the southwest, meanwhile, the feds are investigating a different kind of corruption, charging police officers in the small former mining town of Shenandoah with plotting to cover up the fatal beating of a Mexican immigrant and, in a separate case, with shaking down illegal gambling rackets. The Mob, under the Bufalino crime family, once had a corruption foothold here.

## Backroom dealing

Until recently, there's has been little outside scrutiny of the backroom dealmaking.

"There's no question this is an area that traditionally has not seen a lot of public corruption investigations, and now there are several big ones going on," said FBI spokesman J.J. Klaver. "It is a major undertaking, but we seem to be getting it done, so that's a good thing."

The kids-for-cash scandal, the first to break, remains by the far the biggest and most shocking. On Jan. 26, 2009, federal prosecutors announced charges against judges Mark Ciavarella Jr. and Michael Conahan, describing a scheme in which Conahan forced closure of the county-owned juvenile detention center in 2002 and reached an agreement with a for-profit company co-owned by his friend, a prominent local attorney, to send youth offenders to its new facility outside Wilkes-Barre.

Ciavarella, who presided over juvenile court, sent youths — many of them accused of minor offenses — to the PA Child Care LLC detention center and to a

**"I DO THINK (POLITICS IS) A RELATIVELY NOBLE PROFESSION, BUT THERE'S JUST SO MUCH TEMPTATION AROUND IT AND SO MANY PEOPLE TRYING TO GET THEIR HANDS ON WHAT YOU HAVE, OR WHAT YOU CONTROL FOR THAT BRIEF TIME, THAT YOU'RE A TARGET."**

**GREG SKREPENAK, FORMER LUZERNE COUNTY COMMISSIONER**

sister facility in Western Pennsylvania while he was taking payments, running his courtroom with "complete disregard for the constitutional rights of the juveniles," in the words of the Supreme Court.

He once told a 14-year-old offender to count the number of birds sitting on a ledge outside the courtroom — then gave the teenager six months in detention, one for each bird, according to a recent civil suit.

Yet no one in Luzerne County blew the whistle on Ciavarella's courtroom behavior. Not court staff, not defense lawyers or prosecutors. As a result, juveniles typically got hearings that lasted only a few minutes, and many of them were pressured to waive their right to lawyers.

"This is not just a failure caused by two or three corrupt judges. This is a whole collapse of government," said John Cleland, a state appeals judge who chairs a panel investigating the scandal. "It's a cultural phenomenon that's inexplicable."

Youth advocates say lawyers who regularly appeared in Ciavarella's courtroom but kept quiet about the abuses should face discipline for failing to report the judge.

Testifying before Cleland's panel last week, Robert Schwartz, executive director of the Philadelphia-based Juvenile Law Center, called Luzerne County a "toxic combination" of private enterprise, corrupt judges and indifferent lawyers and probation officers.

"It was the Love Canal of juvenile courts," he said, a place where children were "fast-tracked to oblivion."

The scandal also revealed shortcomings in state supervi-

[EXHIBIT 17.4]



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# theastern Pa. coal country

sion of the courts. The Juvenile Law Center alerted the Supreme Court two years ago that huge numbers of children in Luzerne County were being sent to detention – almost double the state average – yet the court refused to intervene until Conahan and Ciavarella were charged.

The judges, who have pleaded not guilty, await trial on racketeering charges that could send them to prison for the rest of their lives. They also face at least two civil suits filed on behalf of hundreds of children and their parents.

## Staying in control

While residents have long complained about corruption in Luzerne County government, they've had little incentive to change it. As coal mines and garment factories shut down, local government expanded dramatically, offering stable employment and good benefits – if low pay – to those lucky enough to get the jobs. Party bosses used patronage to maintain and enhance their power.

"There's this sense of, 'Well, if my guy gets in, then I will get a job or a family member gets a job.' There's a sense that your life can change ... with an election outcome," said Tom Baldino, a political science professor at Wilkes University in Wilkes-Barre. "So there is a dependence on the part of some families to have their lives revolve around who's in control of the courthouse."

Skrepenak and his running mate, both in their early 30s when they were elected in 2003, seemed to offer something new. Affectionately called "Skrep," the big man (6-foot-7, 325 pounds) had been an honor student in his native Wilkes-Barre, a two-time All-American and Big Ten lineman of the year at the University of Michigan, and an NFL starter who didn't forget his roots – both grandfathers worked the mines, and one died there. Skrepenak could have lived anywhere following his pro career but chose to raise his family at home in northeastern Pennsylvania, where he started a family, focused his campaign agenda on combating drug abuse and crime, and easily won election to the powerful commission post.

His status as a pro football player meant he didn't have to be elected the usual way, by winning Democratic party leadership. But Skrepenak failed to live up to his promise, becoming em-



ASSOCIATED PRESS

**Former county Commissioner Greg Skrepenak talks with the media at Luzerne County Courthouse in Wilkes-Barre. Last month, prosecutors charged the former National Football League player with accepting \$5,000 in gifts from a developer seeking public financing of a condominium project. He is scheduled to plead guilty Tuesday.**

broiled in one controversy after another after taking office. He resigned Dec. 17, one day before agreeing to plead guilty to a single count of corruption.

Now, as he prepares to enter federal prison – he faces up to 10 years but is likely to get 33 to 41 months – Skrepenak ponders where he went wrong. He said he trusted people he shouldn't have.

"I do think (politics is) a relatively noble profession, but there's just so much temptation around it and so many people trying to get their hands on what you have, or what you control for that brief time, that you're a target," Skrepenak said.

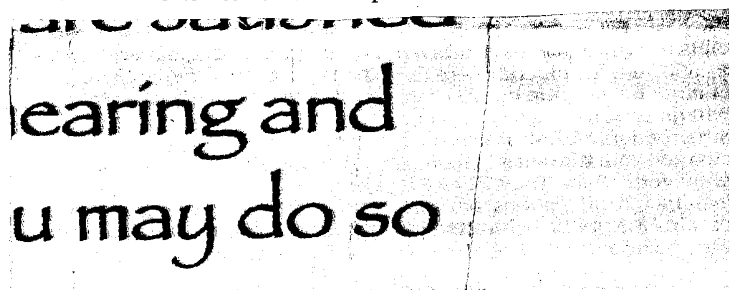
"It's a position I put myself in," he added. "I failed to see what

was going on, I failed to understand what was going on, and now I'm facing stiff legal challenges that will have a profound effect on me for the rest of my life ... Ignorance is not a viable defense, and unfortunately I was ignorant in many ways."

Skrepenak said he hopes other local politicians learn from his mistakes. Whether they will is an open question.

In Wilkes-Barre, the county seat, school board member Frank Pizzella Jr. was charged by federal prosecutors in September with participating in a 2004 scheme to sell a teaching job.

In December, colleagues voted 6-1 to keep him on as board president.



[EXHIBIT 17.5]

NOV 29 2001

REFERENCE

## COURT RULES

### SUPREME COURT OF PENNSYLVANIA

#### IN RE: EXHAUSTION OF STATE REMEDIES IN CRIMINAL AND POST-CONVICTION RELIEF CASES

Dated May 9, 2000

No. 218 Judicial Administration Docket No. 1

#### O R D E R

##### PER CURIAM:

AND NOW, this 9th day of May, 2000, we hereby recognize that the Superior Court of Pennsylvania reviews criminal as well as civil appeals. Further, review of a final order of the Superior Court is not a matter of right, but of sound judicial discretion, and an appeal to this Court will only be allowed when there are special and important reasons therefor. Pa.R.A.P. 1114. Further, we hereby recognize that criminal and post-conviction relief litigants have petitioned and do routinely petition this Court for allowance of appeal upon the Superior Court's denial of relief in order to exhaust all available state remedies for purposes of federal habeas corpus relief.

In recognition of the above, we hereby declare that in all appeals from criminal convictions or post-conviction relief matters, a litigant shall not be required to petition for rehearing or allowance of appeal following an adverse decision by the Superior Court in order to be deemed to have exhausted all available state remedies respecting a claim of error. When a claim has been presented to the Superior Court, or to the Supreme Court of Pennsylvania, and relief has been denied in a final order, the litigant shall be deemed to have exhausted all available state remedies for purposes of federal habeas corpus relief.

This Order shall be effective immediately.

STATE REGIONAL CORRECTIONAL FACILITY  
801 BUTLER PIKE  
MERCER, PA 16137 CXIV

[EXHIBIT 18]



FED-CS-15 - 266 F.3d 218, Wenger v. Frank, (C.A.3 (Pa.) 2001)

----- Excerpt from page 266 F.3d 224 follows -----

> [6]> [7] Wenger maintains that discretionary review by the Pennsylvania Supreme Court is not part of the ordinary process of appellate review by virtue of Order 218, which was issued by the Pennsylvania Supreme Court in May 2000. That order provides as follows:

AND NOW, this 9th day of May, 2000, we hereby recognize that the Superior Court of Pennsylvania reviews criminal as well as civil appeals. Further, review of a final order of the Superior Court is not a matter of right, but of sound judicial discretion, and an appeal to this Court will only be allowed when there are special and important reasons therefor. > Pa.R.A.P. 1114. Further, we hereby recognize that criminal and post-conviction relief litigants have petitioned and do routinely petition this Court for allowance of appeal upon the Superior Court's denial of relief in order to exhaust all available state remedies for purposes of federal habeas corpus relief.

In recognition of the above, we hereby declare that in all appeals from criminal convictions or post-conviction relief matters, a litigant shall not be required to petition to rehearing or allowance of appeal following an adverse decision by the Superior Court in order to be deemed to have exhausted all available

----- Excerpt from page 266 F.3d 225 follows -----

state remedies respecting a claim of error. When a claim has been presented to the Superior Court, or to the Supreme Court of Pennsylvania, and relief has been denied in a final order, the litigant shall be deemed to have exhausted all available state remedies for purposes of federal habeas corpus relief.

This Order shall be effective immediately.

This Order was in all likelihood prompted by Justice Souter's concurring opinion in O'Sullivan.

In that opinion, Justice Souter stated that he understood O'Sullivan "to have left open the question ... whether [the Court] should construe the exhaustion doctrine to force a State, in effect, to rule on discretionary review applications when the State has made it plain that it does not wish to require such applications before its petitioners may seek federal habeas relief." > 526 U.S. at 849, 119 S.Ct. 1728 (Souter, J., concurring). Justice Souter went on to note the example of an order issued by the Supreme Court of South Carolina that is similar to the Pennsylvania Supreme Court's Order 218. Id. Wenger interprets the Pennsylvania Supreme Court's Order No. 218 to mean that he exhausted his ineffective assistance of counsel claims when he raised those claims in the Court of Common Pleas and the Superior Court in his first petition for state collateral review and that his failure fairly to present those claims to the Pennsylvania Supreme Court is immaterial for exhaustion purposes.

After hearing oral argument in this case, we requested the parties to provide supplemental submissions addressing the question whether Order 218 "applies to a case in which the time for filing a petition for discretionary review expired prior to the date of the order." We also invited the Attorney General of Pennsylvania to provide an amicus submission on this question. In that submission, the Attorney General contended that Order 218 should not be interpreted as having a retroactive effect and also that the Order was issued in violation of the state constitution. The Attorney General argued that the Order purports to alter the state supreme court's jurisdiction but that under the state constitution the state supreme court may not alter the jurisdiction of any court. > Pa. Const. art. V, § 10(c).

Although it will undoubtedly be necessary for our court to address the broader question whether the filing of a petition for discretionary review with the Pennsylvania Supreme Court is now "part of the ordinary appellate review procedure in the state," we find it unnecessary to reach that issue here. In this case, we find it sufficient to hold that Order 218 did not retroactively alter the nature of "the ordinary appellate review procedure" in the Commonwealth. We reach this conclusion for three reasons.

First, we believe that the language of the Order, although not in itself conclusive, suggests that the Order was intended to be prospective only. The Order states that the court "hereby declare[s]" that, in appeals from criminal convictions or post-conviction relief matters, "a litigant shall not be required to petition for rehearing or allowance of appeal." Order No. 218, *supra* (emphasis added). The Order also states that it is "effective immediately." On the whole, this language seems to us to be forward-looking.

Second, what we understand to be the primary purpose of this Order and others like it would not be served by retroactive application. Orders of this type are based on the view that requiring state prisoners to file petitions for discretionary review in order to pave the way for federal habeas petitions does little good (because so few petitions for discretionary review are

----- Excerpt from page 266 F.3d 226 follows -----

granted) but imposes a burden on overworked state supreme courts and produces pointless delay. See > O'Sullivan, 526 U.S. at 849, 119 S.Ct. 1728 (Souter, J., concurring); > id. at 863, 119 S.Ct.

[EXHIBIT 19]

1728 (Breyer, J., dissenting). In his dissent in O'Sullivan, Justice Breyer cited the low percentage of petitions granted by several state supreme courts. > Id. at 863, 119 S.Ct. 1728 (Breyer, J., dissenting). He then observed:

On the majority's view, these courts must now consider additional petitions for review of criminal cases, which petitions will contain many claims raised only to preserve a right to pursue those claims in federal habeas proceedings. The result will add to the burdens of already overburdened state courts and delay further a criminal process that is often criticized for too much delay.

> Id. at 863, 119 S.Ct. 1728. He expressed "optimism," however, because of the suggestion in Justice Souter's concurrence that a state could, if it desired, eliminate the requirement of having such claims raised in petitions for discretionary review to the state's highest court. > Id. at 864, 119 S.Ct. 1728. The interests cited by Justice Breyer--relieving the burden on state supreme courts and preventing delay--would obviously not be served by retroactive application of Order 218.

See > Mattis v. Vaughn, 128 F.Supp.2d 249, 262 (E.D.Pa.2001). Any petitions filed prior to that Order solely for the purpose of satisfying the federal exhaustion requirement still had to be passed upon by the state supreme court, and federal habeas review was still delayed until that was done.

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[EXHIBIT 19.1]